

Appointment

From: Forsgren, Lee [Forsgren.Lee@epa.gov]
Sent: 3/1/2018 6:42:35 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]
CC: Holsman, Marianne [Holsman.Marianne@epa.gov]
Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Attachments: R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx; Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx
Location: 3233 WJCE Call in passcode
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
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This meeting is nontransferable.



Region 10 Briefing Paper for the Office of the Regional Administrator

MEETING/EVENT TITLE: Options for Additional Public Comment on Pebble/Bristol Bay 404(c) Action

MEETING DATE: March 7, 2018

LOCATION: R10 ET Conference Room; HQ 3233 WJCE

PREPARED BY: Pebble/Bristol Bay 404(c) team, including staff from R10, OW, and OGC

DATE: March 2, 2018

TARGET ATTENDEES: Chris Hladick (R10), Lee Forsgren (OW), David Fotouhi (OGC)

EXTERNAL PARTICIPANTS: N/A

I. PURPOSE

The purpose of this briefing is to discuss options and a recommendation for implementing EPA's commitment to seek additional public comment regarding EPA's ongoing Pebble/Bristol Bay 404(c) action. EPA's January 26, 2018 decision not to withdraw the 2014 Proposed Determination (PD) includes a commitment to seek additional public comment: "The Agency intends at a future time to solicit public comment on what further steps, if any, the Agency should take in the Section 404(c) process in order to prevent unacceptable adverse effects to the watershed's world-class fisheries in light of the permit application that has now been submitted to the Corps."

II. BACKGROUND

A. Section 404(c) Process

- EPA initiated this Section 404(c) process in 2014, issued a PD, and took public comment on the PD, but was prevented from responding to the public comments or completing its CWA Section 404(c) review because of a preliminary injunction associated with litigation brought by Pebble.
- A PD is the second step in EPA's four step CWA Section 404(c) review process of: 1) Initiation, 2) PD, 3) Recommended Determination (RD), and 4) Final Determination (FD) (40 CFR part 231). The relevant Region issues the PD and RD, and HQ-OW issues the FD that either rescinds, modifies, or affirms the RD (40 CFR 231.6).
 - A PD is issued if the Regional Administrator determines that unacceptable adverse effects "could result." An RD requires a determination that such effects "would be likely" to result and an affirmative FD that imposes restrictions or prohibitions requires a determination that such effects "will result" (40 CFR 231.3, 231.5, and 231.6).
- Under the terms of EPA's May 2017 settlement agreement with Pebble that resolved outstanding litigation, EPA can issue a new or modified PD, or withdraw the PD, at any time.
 - If EPA were to issue a new or modified PD, EPA would need to solicit public comment consistent with EPA's regulations.
- The timing associated with the next step in the 404(c) process, the RD, is limited by the settlement agreement: Region 10 may not forward a signed RD, if such a decision is made, to HQ before either May 11, 2021, or until the U.S. Army Corps of Engineers (Corps) completes a final Environmental Impact Statement (EIS) on Pebble's CWA Section 404 permit application, whichever comes first.

- If at some point, after the time limits in the settlement agreement expire, Region 10 decides to forward an RD to HQ, EPA's 404(c) regulations do not require a public comment period at that time. In making a decision whether to issue an FD, EPA HQ must consult with the Corps, the relevant landowner, and the State.

B. Basis for 404(c) Decision-making

1. 2014 PD

- The 2014 PD is based, in part, on the Bristol Bay Watershed Assessment (BBWA), which evaluated the impacts of three potential mine scenarios at the Pebble deposit (0.25, 2.0 and 6.5 billion-ton mines) on fishery resources.
- The BBWA evaluated the impacts associated with the construction and routine operation of these three mine scenarios (including its transportation corridor), as well as the impacts of a series of possible accidents and failures that occur at mines of this type.
- The BBWA considered all compensatory mitigation information provided as of 2013 by Pebble and other commenters.
- The restrictions in the 2014 PD are based on an analysis of the direct and secondary impacts on fishery areas of the discharge of dredged or fill material into waters of the U.S. associated with the construction and routine operation of the 0.25 billion-ton mine scenario.
- The 2014 PD is focused just on the mine site, and does not address impacts from other project elements, such as the transportation corridor or a port on Cook Inlet or from any possible accidents or failures.

Ex. 5 - Deliberative Process\Attorney Client

Ex. 5 - Deliberative Process\Attorney Client

III. OPTIONS DISCUSSION

Ex. 5 - Deliberative Process\Attorney Client

Ex. 5 - Deliberative Process\Attorney Client

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IV. RECOMMENDATION

Ex. 5 - Deliberative Process\Attorney Client

[PAGE * MERGEFORMAT]



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External Participants (please provide email address and/or point of contact):

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Conference line

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March 1, 2018

OFFICE OF THE
EXECUTIVE SECRETARIAT

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt:

On February 16, 2018, the Department of the Interior ("Interior") published a Federal Register notice ("FR Notice") identifying a list of mineral commodities that are proposed for classification as "critical minerals" pursuant to Executive Order 13817, "A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals," issued by President Trump on December 20, 2017 ("EO 13817"). See 83 FR 7065. EO 13817 defines a "critical mineral" as (i) a non-fuel mineral or mineral material essential to the economic and national security of the United States, (ii) the supply chain of which is vulnerable to disruption, and (iii) that serves an essential function in the manufacturing of a product, the absence of which would have significant consequences for the U.S. economy or national security.

In directing Interior, in coordination with other Federal agencies, to take action under EO 13817, President Trump explains that "[a]n increase in private-sector domestic exploration, production, recycling, and reprocessing of critical minerals ... will reduce our dependence on imports, preserve leadership in technological innovation, support job creation, improve our national security and balance of trade, and enhance the technological superiority and readiness of our Armed Forces, which are among the Nation's most significant consumers of critical minerals." EO 13817 announces a Federal policy to "reduce the Nation's vulnerability to disruptions in the supply of critical minerals," which is to be furthered by several measures, including "identifying new sources of critical minerals; ... increasing activity at all levels of the supply chain, including exploration, mining, concentration, separation, alloying, recycling, and reprocessing critical minerals; ... and streamlining leasing and permitting processes to expedite exploration, production, processing reprocessing, recycling, and domestic refining of critical minerals."

Thank you again for meeting with me when we were seeking to settle our litigation with the Agency. I did not tell you during that meeting that our mine can be a significant domestic source of rhenium. Rhenium is among 35 mineral commodities identified on Interior's draft list of "critical minerals" provided in the FR Notice. Our exploratory activities have confirmed that Pebble could be a world class source of rhenium, in addition to producing staggering quantities of copper, gold and molybdenum.



President Trump's directive in EO 13817 to prioritize securing meaningful domestic supplies of critical mineral commodities gives significant reason to ensure that rhenium-rich deposits such as Pebble can move toward development free from the threat of preemptive 404(c) veto action by the U.S. Environmental Protection Agency. Likewise, development of such critical mineral resources should be entitled to streamlined permitting and environmental review procedures available under applicable agency regulatory processes, including any review that may be available under FAST-41 environmental streamlining procedures.

Given the aims of EO 13817, we would appreciate an opportunity to discuss further with you Pebble's status as a source of critical mineral commodities as well as efforts to ensure that Pebble's Clean Water Act § 404 permit application now pending before the U.S. Army Corps of Engineers receives full and fair consideration, without threat of preemptive negative decisions, and is entitled to any available opportunities for streamlined review and agency decision making.

Sincerely,

Tom Collier
CEO, Pebble Limited Partnership

Collier, CEO
Pebble Limited Partners
1 C Street, Suite 604
Anchorage, AK 99503

Hasler

03/08/2018

US POSTAGE



First Class Mail



FCF2033375

The Honorable Scott Pruitt
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460

MAR 12 2018

Appointment

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Sent: 3/1/2018 5:58:13 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]
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External Participants (please provide email address and/or point of contact):

N/A

Audio Line or Video Conference or other technology needs required (provide details)?

Conference line

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Point of Contact for the Meeting:

Erik Peterson, 206-553-6382

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2/6/18

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Bristol Bay 404(c) Post No-Withdrawal Comment Period Options

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Appointment

From: Penman, Crystal [Penman.Crystal@epa.gov]
Sent: 3/2/2018 8:27:43 PM
To: Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]
Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Attachments: R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx; Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx
Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Tentative

This meeting is nontransferable.



Region 10 Briefing Paper for the Office of the Regional Administrator

MEETING/EVENT TITLE: Options for Additional Public Comment on Pebble/Bristol Bay 404(c) Action

MEETING DATE: March 7, 2018

LOCATION: R10 ET Conference Room; HQ 3233 WJCE

PREPARED BY: Pebble/Bristol Bay 404(c) team, including staff from R10, OW, and OGC

DATE: March 2, 2018

TARGET ATTENDEES: Chris Hladick (R10), Lee Forsgren (OW), David Fotouhi (OGC)

EXTERNAL PARTICIPANTS: N/A

I. PURPOSE

The purpose of this briefing is to discuss options and a recommendation for implementing EPA's commitment to seek additional public comment regarding EPA's ongoing Pebble/Bristol Bay 404(c) action. EPA's January 26, 2018 decision not to withdraw the 2014 Proposed Determination (PD) includes a commitment to seek additional public comment: "The Agency intends at a future time to solicit public comment on what further steps, if any, the Agency should take in the Section 404(c) process in order to prevent unacceptable adverse effects to the watershed's world-class fisheries in light of the permit application that has now been submitted to the Corps."

II. BACKGROUND

A. Section 404(c) Process

- EPA initiated this Section 404(c) process in 2014, issued a PD, and took public comment on the PD, but was prevented from responding to the public comments or completing its CWA Section 404(c) review because of a preliminary injunction associated with litigation brought by Pebble.
- A PD is the second step in EPA's four step CWA Section 404(c) review process of: 1) Initiation, 2) PD, 3) Recommended Determination (RD), and 4) Final Determination (FD) (40 CFR part 231). The relevant Region issues the PD and RD, and HQ-OW issues the FD that either rescinds, modifies, or affirms the RD (40 CFR 231.6).
 - A PD is issued if the Regional Administrator determines that unacceptable adverse effects "could result." An RD requires a determination that such effects "would be likely" to result and an affirmative FD that imposes restrictions or prohibitions requires a determination that such effects "will result" (40 CFR 231.3, 231.5, and 231.6).
- Under the terms of EPA's May 2017 settlement agreement with Pebble that resolved outstanding litigation, EPA can issue a new or modified PD, or withdraw the PD, at any time.
 - If EPA were to issue a new or modified PD, EPA would need to solicit public comment consistent with EPA's regulations.
- The timing associated with the next step in the 404(c) process, the RD, is limited by the settlement agreement: Region 10 may not forward a signed RD, if such a decision is made, to HQ before either May 11, 2021, or until the U.S. Army Corps of Engineers (Corps) completes a final Environmental Impact Statement (EIS) on Pebble's CWA Section 404 permit application, whichever comes first.

- If at some point, after the time limits in the settlement agreement expire, Region 10 decides to forward an RD to HQ, EPA's 404(c) regulations do not require a public comment period at that time. In making a decision whether to issue an FD, EPA HQ must consult with the Corps, the relevant landowner, and the State.

B. Basis for 404(c) Decision-making

1. 2014 PD

- The 2014 PD is based, in part, on the Bristol Bay Watershed Assessment (BBWA), which evaluated the impacts of three potential mine scenarios at the Pebble deposit (0.25, 2.0 and 6.5 billion-ton mines) on fishery resources.
- The BBWA evaluated the impacts associated with the construction and routine operation of these three mine scenarios (including its transportation corridor), as well as the impacts of a series of possible accidents and failures that occur at mines of this type.
- The BBWA considered all compensatory mitigation information provided as of 2013 by Pebble and other commenters.
- The restrictions in the 2014 PD are based on an analysis of the direct and secondary impacts on fishery areas of the discharge of dredged or fill material into waters of the U.S. associated with the construction and routine operation of the 0.25 billion-ton mine scenario.
- The 2014 PD is focused just on the mine site, and does not address impacts from other project elements, such as the transportation corridor or a port on Cook Inlet or from any possible accidents or failures.

Ex. 5 - Deliberative Process\Attorney Client

Ex. 5 - Deliberative Process\Attorney Client

III. OPTIONS DISCUSSION

Ex. 5 - Deliberative Process\Attorney Client

Ex. 5 - Deliberative Process\Attorney Client

[PAGE * MERGEFORMAT]

IV. RECOMMENDATION

Ex. 5 - Deliberative Process\Attorney Client

[PAGE * MERGEFORMAT]



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David Allnutt, Ashley Palomaki, Carrie Wehling and/or Heidi Nalven, Palmer Hough, John Goodin, Erik Peterson

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From: Penman, Crystal [Penman.Crystal@epa.gov]
Sent: 2/27/2018 5:49:53 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]
CC: Tyson, Linda [Tyson.Linda@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Shoemake, Neverley [shoemake.neverley@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Attachments: R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx
Location: DCRoomEast2369B/DC-ICC-OW-IO
Start: 3/6/2018 7:00:00 PM
End: 3/6/2018 8:00:00 PM
Show Time As: Tentative



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David Allnutt, Ashley Palomaki, Carrie Wehling and/or Heidi Nalven, Palmer Hough, John Goodin, Erik Peterson

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Cara Steiner-Riley, Steven Neugeboren, Ashley Palomaki, Russel Kaiser, Brittany Bennett, Suzanne Skadowski, Neverly Shoemake, Patricia McGrath,

External Participants (please provide email address and/or point of contact):

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Message

From: Hough, Palmer [Hough.Palmer@epa.gov]
Sent: 3/1/2018 7:41:16 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Thank you both for flagging that OW was not included – I sent Crystal a message.

From: Allnutt, David
Sent: Thursday, March 01, 2018 2:18 PM
To: Hough, Palmer <Hough.Palmer@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Palmer – just FYI, some of us were just invited to a briefing that does not include anyone from OW (except Lee).



R. David Allnutt, Director
Office of Environmental Review and Assessment
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140
(206) 553-2581



From: Hough, Palmer
Sent: Thursday, March 01, 2018 10:08 AM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

FYI

From: Goodin, John
Sent: Thursday, March 01, 2018 12:50 PM
To: Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

From: Forsgren, Lee
Sent: Thursday, March 01, 2018 12:49 PM
To: Penman, Crystal <Penman.Crystal@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Crystal,

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Thanks,
Lee

From: Goodin, John
Sent: Thursday, March 1, 2018 12:34 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
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Thanks, Lee. Recommend from OW (in addition to you) Palmer Hough, Russ Kaiser, and me. I defer to David and Chris re: their attendees. You are the owner of the invite and can have Crystal cancel/resend with new attendees.

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Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
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Lee

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From: Tyson, Linda **On Behalf Of** Hladick, Christopher
Sent: Thursday, March 1, 2018 11:06 AM
To: Forsgren, Lee
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
When: Wednesday, March 7, 2018 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 3233 WJCE

Appointment

From: Penman, Crystal [Penman.Crystal@epa.gov]
Sent: 3/1/2018 7:04:40 PM
To: Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]
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From: Hough, Palmer [Hough.Palmer@epa.gov]
Sent: 3/1/2018 6:07:39 PM
To: Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]
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Sent: 3/1/2018 6:01:08 PM
To: Allnutt, David [Allnutt.David@epa.gov]
Subject: Re: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Got it and have sent on

Sent from my iPhone

On Mar 1, 2018, at 9:29 AM, Allnutt, David <Allnutt.David@epa.gov> wrote:

Chris -- I vote for you, me, Ashley, and Erik Peterson.

<image008.png>

R. David Allnutt, Director
Office of Environmental Review and Assessment
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140
(206) 553-2581

<image002.png> <image003.png> <image004.png> <image005.png> <image006.png> <image007.png>

From: Hladick, Christopher
Sent: Thursday, March 01, 2018 9:01 AM
To: Allnutt, David <Allnutt.David@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

David:

Lee only wants four from Region X, that would be you and I, one from OGC and one other of your choosing. Would that be Ashley or Cara from OGC since Allyn is out?

Chris Hladick
Regional Administrator
U.S. Environmental Protection Agency, Region 10
Office: (206) 553-1234
Cell: (206) 247-2946
Fax: (206) 553-1809

From: Forsgren, Lee
Sent: Thursday, March 1, 2018 8:13 AM
To: Goodin, John <Goodin.John@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
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Message

From: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]
Sent: 3/1/2018 5:14:07 PM
To: Allnutt, David [Allnutt.David@epa.gov]
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

I am good with Ashley going. I can be the one "of your choosing" but not necessary. Thanks for sharing.

From: Allnutt, David
Sent: Thursday, March 01, 2018 9:02 AM
To: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Thoughts?



R. David Allnutt, Director
Office of Environmental Review and Assessment
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900
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Chris Hladick
Regional Administrator
U.S. Environmental Protection Agency, Region 10
Office: (206) 553-1234
Cell: (206) 247-2946
Fax: (206) 553-1809

From: Forsgren, Lee
Sent: Thursday, March 1, 2018 8:13 AM
To: Goodin, John <Goodin.John@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

John,

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We can't be forthcoming enough to discuss options with 60 people involved.

Lee

-----Original Appointment-----

From: Tyson, Linda **On Behalf Of** Hladick, Christopher

Sent: Thursday, March 1, 2018 11:06 AM

To: Forsgren, Lee

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

When: Wednesday, March 7, 2018 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 3233 WJCE

Message

From: Hladick, Christopher [hladick.christopher@epa.gov]
Sent: 3/1/2018 5:00:43 PM
To: Allnutt, David [Allnutt.David@epa.gov]
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

David:

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Where: 3233 WJCE

Message

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 2/2/2018 8:55:01 PM
To: Allnutt, David [Allnutt.David@epa.gov]
Subject: Bristol Bay 404c - potential RA message about comment period options paper

David,

Here is a potential message/suggestion for you to send to Chris Hladick, and for him to send (or something like it) to Lee Forsgren and David Fatouhi.

Chris,

As you are aware, EPA's January 26, 2018 decision to not withdraw the proposed determination re: Bristol Bay communicates the agency's intention to solicit public comments on further 404(c) steps.

To facilitate this commitment, the 404(c) team is planning to write a Bristol Bay 404(c) comment period options paper. The purpose of this paper is to support Regional and OWW decision making with regard to the timing and purpose of such a comment period (given consideration of the NEPA, 404 and other simultaneous permitting processes).

Given your role in the 404(c) process, the 404(c) team suggests you propose to Lee Forsgren and David Fotouhi a briefing date for the comment period options paper sometime between February 21st and March 2nd.



Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140
(206) 553-6382

Draft List of Potential Required Authorizations/Permits/Licensure

Alaska Department of Environmental Conservation

Alaska Solid Waste Program

Integrated Waste Management Plan Approval

Clean Air Act

Air Quality Control Permit to Construct and Operate – Prevention of Significant Deterioration

Title V Operating Permit

Clean Water Act

Section 402 Alaska Pollutant Discharge Elimination System Water Discharge Permit

Section 402 Stormwater Construction and Operation Permit

Section 401 Water Quality Certification for Discharge of Dredge or Fill Material into Waters of the U.S.

Public Health and Safety

Approval to Construct and Operate a Public Water Supply System

Food Sanitation Permit

Alaska Department of Fish and Game

Fish collection permits for field studies

Fish Habitat Permit

Alaska Department of Natural Resources

Alaska Dam Safety Program

Certificate of Approval to Construct a Dam

Certificate of Approval to Operate a Dam

Alaska Land Use Regulations

Lease of Other State Lands

Material Sale on State Land

Fiber Optic Cable Right-of-Way

Pipeline Right-of-Way

Powerline Right-of-Way

Road Right-of-Way

Tidelands Lease

Alaska Mining Regulations

Mill Site Permit

Miscellaneous Land Use Permit

Plan of Operations Approval

Reclamation Plan Approval

Reclamation Financial Assurance

Upland Mining Lease

Registrations

Mining License

Water Use

Temporary Water Use Permit

Water Rights

Alaska Department of Labor

Certificate of Inspection for Fired and Unfired Pressure Vessels

Employer Identification Number

Alaska Department of Transportation and Public Facilities

Driveway Permit

Utility Permit on Right-of-Way

Alaska Department of Public Safety

Approval to Transport Hazardous Materials

Life and Fire Safety Plan Check

State Fire Marshall Plan Review Certificate of Approval

Bureau of Safety and Environmental Enforcement

Pipeline Right-of-Way

National Marine Fisheries Service

Marine Mammal Protection Act

Incidental Take Authorization

Endangered Species Act

Incidental Take Authorization

US Army Corps of Engineers

Clean Water Act

Section 404 Permit for Discharge of Dredge or Fill Material into Waters of the U.S.

Marine Protection Resources and Sanctuaries Act

Section 103 Permit for transportation of dredged material for the purpose of dumping in the Ocean

Rivers and Harbors Act

Section 10 Permit for the construction of any structure in or over any navigable waters of the United States, the excavat

US Coast Guard

Hazardous Materials and Hazardous Wastes

Approval to Transport Hazardous Materials

Port Operations Approval

Oil Spill Contingency

Person in Charge Certification

Rivers and Harbors Act

Section 9 Construction Permit for a Bridge or Causeway across Navigable Waters

Navigation Lighting and Marking Aids Permit

US Department of Homeland Security

Port Facility Security Coordinator Certification

Port Security Operations Plan Approval

US Department of Transportation

Registration for Identification Number to Transport Hazardous Wastes

US Environmental Protection Agency

Hazardous Materials and Hazardous Wastes

RCRA Registration for Identification Number

US Fish and Wildlife Service

Bald and Golden Eagle Protection Act

Non Purposeful Take Permit

Endangered Species Act

Incidental Take Authorization

ion and dredging or deposition of material, or any obstruction or alteration to a navigable water.

United States Army Corps of Engineers-Alaska District-Regional
Regulatory Division-Cooperating Agency Coordination Plan

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Introduction

This document describes the roles and responsibilities of the various cooperating agencies in order to establish a protocol for communication, early identification and resolution of issues, and to resolve issues that could delay completion of the environmental impact statement (EIS) and respective records of decision (ROD) for action agencies.

Lead Agency

USACE is the lead federal agency for completion of the EIS. The responsibility of the lead agency is to ensure compliance with applicable laws and regulations (i.e. National Environmental Policy Act (NEPA), Clean Water Act, etc.) USACE is responsible for managing the EIS process and schedule and the final content of the EIS, identifying and selecting cooperating agencies, and involving the public in the process. USACE will select a third party contractor in accordance with Regulatory Guidance Letter No. 05-08 for preparation of the EIS. The CEQ regulations implementing the NEPA govern the cooperating agency relationship for all Federal agencies preparing EISs under the NEPA. The Corps' regulations and policies regarding cooperating agencies are in agreement with those of CEQ.

Determination of Eligibility for Cooperating Agency Status

State agencies, local governments, Tribal governments, and other Federal agencies may be eligible to serve as cooperating agencies. Other than its provisions for Tribes (see subsection Eligibility of Tribes), CEQ regulations recognize two criteria for CA status: jurisdiction by law and special expertise.

Defining Eligibility 40 CFR 1508.5 (CEQ)

“Cooperating agency” means any federal agency other than a lead agency, which has “jurisdiction by law” or “special expertise” with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major federal action significantly affecting the quality of the human environment

....A state or local agency of similar qualifications or, when the effects are on a reservation, an Indian tribe, may by agreement with the lead agency become a cooperating agency.

Jurisdiction by law 40 CFR 1508.15 (CEQ)

“Jurisdiction by law” means agency authority to approve, veto, or finance all or part of the proposal.

Jurisdiction by law offers a very specific basis for CA status and clearly states its statutory obligation to assist in EIS development and implementation.

Special expertise 40 CFR 1508.26 (CEQ)

“Special expertise” means statutory responsibility, agency mission, or related program experience.

Special expertise provides a broader window for CA status, emphasizing the relevant capabilities or knowledge that a Federal, Tribal, State, or local governmental entity can contribute to the EIS stemming from its statutory responsibilities or agency mission.

Eligibility of Tribes 40 CFR 1508.5 (CEQ)

The CEQ regulations specify that a Tribe is eligible for cooperating agency status “when the effects [of an undertaking] are on a reservation”.

The cooperating agency relationship is not a replacement or substitution for the government to government relationship with a Tribal government. The Corps has responsibilities under other laws, regulations, and policies to consult with Tribes when privately proposed projects requiring federal authorization affect resources important to Tribes. The Corps has extended government to government consultation invitations to 35 federally recognized tribes. Additional information about the Tribal consultation process for the projects requiring DA authorization under the regulatory program can be found in the Tribal Consultation Plan.

Identifying and inviting potential Cooperating Agencies

CEQ regulations permit a lead agency to invite other eligible agencies and governments to assume a cooperating agencies role “at the earliest possible time” (40 CFR 1501.6). Project Managers are expected to make a reasonable effort to identify Federal, Tribal, State and local entities possessing *jurisdiction by law* or *special expertise* concerning the area potentially affected by the project. Conversely, when a government entity requests CA status, the request must be evaluated against CA eligibility criteria. If either of the criteria (*jurisdiction by law* or *special expertise*) is met, CA status can be granted.

USACE will identify and invite agencies in accordance with the above definitions. The proposed project is located on state owned and privately owned land. USACE has identified six federal agency with jurisdiction by law and two federal agencies with special expertise and the State of Alaska with both jurisdiction by law and special expertise.

To establish CA status, the Corps will send a Letter of Invitation to the eligible government entity. The Letter of Invitation will include a brief outline of the role(s) of the specific cooperating agency in the EIS and invite the agency to an agency scoping meeting prior to the agency providing response to the invitation. To establish the formal CA relationship, the eligible government entity will send a written response back to the Corps stating their intent to serve as a CA in the EIS along with their ability to fulfill responsibilities identified in the Corps invitation letter.

See Appendix A for cooperating agency identification and rationale for the proposed project and cooperating agency invitation letters.

Roles and Responsibilities of Lead and Cooperating Agencies

The CEQ regulations call for early and significant involvement by cooperating agencies in the preparation of an EIS. Both lead and cooperating agencies assume significant obligations in offering and accepting the CA relationship. As the lead agency, the Corps is expected to use the analysis and proposals of a CA “to the maximum extent possible consistent with its responsibility” (40 CFR 1501.6 (a) (2)).

CAs agree to contribute staff to the cooperating agency team, develop analyses for which they have particular expertise, and fund their own participation. Once becoming a CA partner, the agency remains a CA throughout the entire NEPA process, unless they withdraw due to exhausted resources or funding.

Roles of lead and cooperating agencies 40 CFR 1501.6 (CEQ)

(a) The lead agency shall:

1. Request the participation of each cooperating agency in the NEPA process at the earliest possible time.
2. Use the environmental analysis and proposals of cooperating agencies with “jurisdiction by law” or “special expertise,” to the maximum extent possible consistent with its responsibility as lead agency.
3. Meet with a cooperating agency at the latter’s request.

b) Each cooperating agency shall:

1. Participate in the NEPA process at the earliest possible time.
2. Participate in the scoping process.
3. Agencies with jurisdiction by law will provide agency required screening criteria for alternatives development.
4. Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has “special expertise.
5. Make available staff support at the lead agency’s request to enhance the latter’s interdisciplinary capability. Normally use its own funds.

The roles and responsibilities for each CA will be formalized when the cooperating agency team is formed, scoping is completed, and the team is aware of potential gaps in cooperating agency team knowledge.

USACE’s intent is to involve cooperating agencies early and identify specific roles to be fulfilled by cooperators to allow for the agency to focus their efforts, keep relevant information familiar, and assist in timely work product and reviews.

It will be the responsibility of each cooperating agency to inform USACE in writing if their respective agency does not have adequate resources to participate in the process, produce requested analysis, and/or meet the required review periods.

General Cooperating Agency Expectations

The following information is designed to give an overview of expectations of cooperating agencies from EIS initiation through completion.

EIS Initiation. The Corps will compile all relevant scientific research and ecological models that exist, develop a preliminary scope for the EIS, draft our agency purpose and need statement and develop a set of communication tools (sharepoint, website, meeting points). At this stage of the process, informal discussions with potential cooperating agencies will occur, followed by an agency scoping meeting, and formal invitations for cooperating agency status.

Roles for CAs: Determine agency capabilities to enter into cooperating agency relationship. Appoint a member (and potentially alternate) to serve on the cooperating agency management team and coordinate all internal resource efforts specific to the agency.

See Appendix B for agency designated personnel for this project.

Define Purpose and Need & Assess the Affected Environment

This phase includes all activities required to initiate preparation and development of an EIS. It includes notifying the public of the project by publishing a Notice of Intent in the Federal Register and initiating the public scoping process; defining the project purpose, need, and objectives statements through public scoping meetings for incorporation into the draft EIS; developing a conceptual ecological model; and succinctly describing the existing environmental conditions and resource baselines in the Affected Environment Section of the draft EIS.

Roles for CAs: Action agencies identify agency purpose and need and provide comprehensive alternatives screening criteria. Participate in scoping and collaborate in assessing scoping comments. Identify data needs; provide data and technical analyses within CA's expertise. Provide information (such as local monitoring and baseline data) for affected resource modeling and draft affected environment section of the EIS and help interpret model results as appropriate.

Consider Alternatives with Scoping (Public) Input

The EIS lead and cooperating agency team will utilize public input to formulate a suite of reasonable alternatives to achieve the purpose and need of the proposed project. The information gathered during this phase will be used to prepare the Alternatives Chapter of the draft EIS.

Roles for CAs: Review alternatives proposed by public and suggest potential alternatives. For agencies with jurisdiction by law, ensure proposed alternatives take into consideration agency required screening criteria.

Analyze Impacts

Cooperating Agencies will be assigned to technical teams based on special expertise and jurisdiction by law. The CA will assist in analyzing the impacts (adverse and beneficial) and the significance of impacts on the environment of the area(s) to be affected or created by the

alternatives under consideration. These impacts will be documented in the Environmental Consequences Chapter of the draft EIS.

Roles for CAs: Suggest models and methods for impact analyses; provide effects analysis within CA's expertise; identify direct, indirect, and cumulative effects within CA's expertise; suggest mitigation measures for adverse effects.

Write/Review/Comment/Resolve

This phase will consist of consolidating all prepared draft chapters and appendices into a complete draft EIS and release of the document to all interested parties. Public hearings will be conducted and comments will be solicited

Roles for CAs: Collaborate with lead agency in evaluating alternatives; provide information for draft EIS. Resolve agency comments within jurisdiction by law or special expertise prior to public release of draft. Participate in hearings. Work with lead agency to understand and evaluate public comments.

Consider comments and finalize EIS

This phase includes all the activities necessary to consider and respond to comments received on the draft EIS, revise (especially changes to alternatives or impact analysis conclusions) and finalize EIS, prepare the document for printing and print the required copies, prepare and publish a Notice of Availability for the final EIS.

Roles for CAs: Review comments within CA's expertise and assist in preparing responses. Suggest changes to alternatives or analysis as appropriate when comments dictate.

Please see Appendix C for specific Coordination Points, Information Requirements and Responsibilities for this project.

NOTE: There is no expectation that any cooperating agency will participate in review outside of agency jurisdiction by law or special expertise. Agencies may however choose to participate more broadly.

Abide by agreed upon schedule

The schedule will include major EIS milestones consistent with statutory and regulatory requirements, in order to encompass the full environmental review process. The Lead agency will provide details in the schedule that are applicable to cooperating agency responsibilities. The Corps will use its discretion as Lead agency in deciding the level of detail for the cooperating agency schedule with the objective of communicating clear expectations for the overall effort. A draft schedule has been provided to facilitate discussion. A final schedule will not be produced until after public scoping has occurred and the agencies have had opportunity to identify data gaps and any additional requirements identified as a result of scoping.

Agency Writing and Review Time

Agencies will be actively involved in writing and revising the Draft EIS within their respective areas of special expertise. Specific development and revision periods will be identified in the project schedule.

All public review and circulation periods will be identified in the project schedule and will be consistent with NEPA requirements.

Cooperating Agency Guidance on Project Communications

Cooperating agencies are encouraged to engage in robust discussion and debate during cooperating agency meetings and topical discussions on affected resources. These meetings ensure that all cooperating voices are heard throughout the EIS process and that multiple views can be thoroughly discussed. The Corps will not use the exchange that occurs within these meetings as a substitute for agency position or comments. The Corps requires that formal cooperating agency comments on work products of the EIS be submitted on agency letterhead, signed by the agency's designated official, within the time frames agreed upon in the approved project schedule. These letters may be submitted electronically to the designated project email address: poaspecialprojects@usace.army.mil. **All agency correspondence will be made part of the public record upon receipt.**

Appendix A. Entities identified to participate in the EIS process and Cooperating Agency Invitation Letters

Agency Name	Role	Responsibilities	Date Invited/Date Accepted or Declined
ACE	Lead Agency Jurisdiction	CWA, 103, RH10, Manage efficient environmental review process; prepare EIS; provide opportunity for public and cooperating agency involvement	N/A
State of Alaska			
	Cooperating Agency- Jurisdiction	Section 401,402, air quality permit jurisdiction P&N, ROA, water quality, air quality	
	Cooperating Agency- Jurisdiction	Fish Habitat Permitting, P&N, ROA, fisheries, wildlife	
	Cooperating Agency- Special Expertise	P&N, ROA, Cultural Resources, Historic Properties Section 106 Consultation	
	Cooperating Agency- Jurisdiction	Mine Permitting, P&N, ROA, tailings spill analysis, dam review	
	Cooperating Agency- Special Expertise	P&N, ROA, Needs and welfare of the people, health risk assessment	
DEE	Cooperating Agency Jurisdiction	P&N, ROA, ROW-OCS	
PHMSA	Cooperating Agency Jurisdiction	P&N, ROA, Pipeline Safety, Diesel Spill Risk	
HP	Cooperating Agency- Special Expertise	P&N, ROA, Historic Properties, Section 106	
Fish and Wildlife Service	Cooperating Agency- Special Expertise Jurisdiction by law	P&N, ROA, Fish, Wildlife, Endangered Species ITA, IHA	
NOAA NMFS	Cooperating Agency- Special Expertise Jurisdiction by law	P&N, ROA, Fisheries, Marine Mammals, Endangered Species ITA, IHA	
Environmental Protection Agency	Cooperating Agency- Special Expertise Jurisdiction 404 Veto authority	P&N, ROA, Section 404(b)(1), wetlands, special aquatic sites,309	
United States Coast	Cooperating Agency-	P&N, ROA, Port safety, navigation,	

Guard	Jurisdiction-	Section 9	
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Appendix B. Agency Cooperating Agency Team Member Contact Information

Contacts for agencies that have replied in the affirmative.

Agency	Contact Person/Title	Phone	E-mail
State of Alaska	Kyle Moselle		Kyle.moselle@alaska.gov
BSEE	John McCall		John.mccall@bsee.gov
USDOT-PHMSA	Linda Daugherty		linda.daugherty@dot.gov
ACHP	John Eddins		jeddins@achp.gov
USFWS	Doug Cooper		Douglas Cooper@fws.gov
NOAA-NMFS	Greg Balough Doug Limpinsel		Greg.balough@noaa.gov Doug.Limpinsel@noaa.gov
USEPA	Patty McGrath		Mcgrath.patricia@epa.gov
USCG	David Seris		David.M.Seris@uscg.mil

Appendix C. Coordination Points, Information Requirements and Responsibilities

The following coordination points are key meeting collaboration points to ensure an efficient process.

Coordination Point	Meeting Purpose	Deliverables	Agency Involvement
Notice of Intent EIS	Send cooperating agencies a copy of the NOI; Invite agencies to agency scoping meeting		USACE
Agency Scoping Meeting	Overview of project, Draft P&N, and applicant prepared alternatives, Coop Agency Coordination Plan	Agencies Respond to Cooperating Request within specified timeframe	Each invited Agency to provide response
Conduct Public Scoping	Solicit public input on Project, Alternatives, socio and environmental concerns	Any Agency Scoping Comments due at same time as public comments	All Agency
Post Scoping Collaboration			
	Purpose and Need	Agency Purpose and Need Statement	Action Agencies
	Develop Alternatives Screening Criteria	Criteria for Reasonable Criteria for Practicable	All Agencies
	Breadth of Environmental Resources to be analyzed	List of environmental resources. Finalize EIS outline	All Agencies
Collaboration on impact assessment methodologies	Technical expertise by topic to determine the appropriate context and method for evaluating impacts to specific environmental resources	Report out from each group	Agencies as assigned based on jurisdiction and special expertise
Review of Environmental Baseline and Consequences	Review comments by agencies with technical experts	Resolve agency Comments on document sections	Agencies as assigned based on jurisdiction and special expertise
Post Circulation of DEIS	Review public comments within assigned areas	Address/Resolve Public Comments	Agencies as assigned based on jurisdiction and special expertise
I.D. the Applicant's Preferred Alternative iaw AppB	Agencies with Federal actions – id preferred alt. and identify differences based on program	USACE in accordance with Appendix B, PHMSA as fits their agency.	Action Agencies

	authorities		
I.D. LEDPA	Review all relevant information to LEDPA determination	Preliminary LEDPA	USACE/USEPA
Circulation of FEIS	Agency involvement closeout	Document	USACE

References

1. Council on Environmental Quality NEPA regulations
http://www.nepa.gov/nepa/regs/ceq/toc_ceq.htm
2. Forty Most Asked Questions Concerning
CEQ's NEPA Regulations
http://www.eh.doe.gov/nepa/tools/guidance/volume1/4-1-40_questions.html
3. The Corps Environmental Quality
Procedures for Implementing NEPA
<http://www.usace.army.mil/publications/eng-regs/er200-2-2/entire.pdf>
4. Regulatory Guidance Letter 05-08.
Subject: Environmental Impact
Statements-Third Party Contracting
<http://www.usace.army.mil/Portals/2/docs/civilworks/RGLS/rgl05-08.pdf>
5. Appendix B to Part 325-NEPA
Implementation Procedures for the
Regulatory Program
<http://www.gpo.gov/fdsys/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-part325.pdf>

	Scheduled Start	Scheduled Finish	Scheduled Duration	Work	Cost	% Complete	% Work Complete
1	Mon 2/19/18	Thu 9/10/20	669d	0h	\$0.00	0%	0%

Message

From: Allnutt, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6E28F5BF9CBF4B8B9EDA7751C2F10750-ALLNUTT, DAVID]
Sent: 3/1/2018 5:29:11 PM
To: Hladick, Christopher [hladick.christopher@epa.gov]
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Chris -- I vote for you, me, Ashley, and Erik Peterson.



R. David Allnutt, Director
Office of Environmental Review and Assessment
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140
(206) 553-2581



From: Hladick, Christopher
Sent: Thursday, March 01, 2018 9:01 AM
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Where: 3233 WJCE

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Sent: 3/1/2018 5:02:10 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Thoughts?



R. David Allnutt, Director
Office of Environmental Review and Assessment
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140
(206) 553-2581



From: Hladick, Christopher
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To: Forsgren, Lee

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

When: Wednesday, March 7, 2018 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 3233 WJCE

Appointment

From: Allnutt, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6E28F5BF9CBF4B8B9EDA7751C2F10750-ALLNUTT, DAVID]
Sent: 3/1/2018 4:23:06 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

Appointment

From: Allnutt, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6E28F5BF9CBF4B8B9EDA7751C2F10750-ALLNUTT, DAVID]
Sent: 2/13/2018 7:09:17 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WjCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy
Start: 3/6/2018 7:00:00 PM
End: 3/6/2018 8:00:00 PM
Show Time As: Busy

Appointment

From: Allnutt, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6E28F5BF9CBF4B8B9EDA7751C2F10750-ALLNUTT, DAVID]
Sent: 2/12/2018 7:01:31 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Accepted: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WjCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy
Start: 3/6/2018 8:00:00 PM
End: 3/6/2018 9:00:00 PM
Show Time As: Busy

Message

From: Allnutt, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6E28F5BF9CBF4B8B9EDA7751C2F10750-ALLNUTT, DAVID]
Sent: 3/1/2018 7:17:34 PM
To: Hough, Palmer [Hough.Palmer@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Palmer – just FYI, some of us were just invited to a briefing that does not include anyone from OW (except Lee).



R. David Allnutt, Director
Office of Environmental Review and Assessment
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140
(206) 553-2581



From: Hough, Palmer
Sent: Thursday, March 01, 2018 10:08 AM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

FYI

From: Goodin, John
Sent: Thursday, March 01, 2018 12:50 PM
To: Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

From: Forsgren, Lee
Sent: Thursday, March 01, 2018 12:49 PM
To: Penman, Crystal <Penman.Crystal@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Crystal,

Cancel this meeting and resend only to the OW staff John recommends – R10 – Chris Hladick David Allnut, Ashley Palomaki, Erik Peterson, David Fotouhi, Steve Neugeboren, and Sarah Greenwalt. Meeting is nontransferable.

Thanks,
Lee

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Sent: Thursday, March 1, 2018 12:34 PM

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Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

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Thanks

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We can't be forthcoming enough to discuss options with 60 people involved.

Lee

-----Original Appointment-----

From: Tyson, Linda **On Behalf Of** Hladick, Christopher

Sent: Thursday, March 1, 2018 11:06 AM

To: Forsgren, Lee

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

When: Wednesday, March 7, 2018 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 3233 WJCE

Appointment

From: Penman, Crystal [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=93662678a6fd4d4695c3df22cd95935a-Penman, Crystal]
Sent: 3/1/2018 6:42:30 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]
CC: Holsman, Marianne [Holsman.Marianne@epa.gov]
Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Attachments: R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx; Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx
Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

This meeting is nontransferable.



Region 10 Briefing Paper for the Office of the Regional Administrator

MEETING/EVENT TITLE: Options for Additional Public Comment on Pebble/Bristol Bay 404(c) Action

MEETING DATE: March 7, 2018

LOCATION: R10 ET Conference Room; HQ 3233 WJCE

PREPARED BY: Pebble/Bristol Bay 404(c) team, including staff from R10, OW, and OGC

DATE: March 2, 2018

TARGET ATTENDEES: Chris Hladick (R10), Lee Forsgren (OW), David Fotouhi (OGC)

EXTERNAL PARTICIPANTS: N/A

I. PURPOSE

The purpose of this briefing is to discuss options and a recommendation for implementing EPA's commitment to seek additional public comment regarding EPA's ongoing Pebble/Bristol Bay 404(c) action. EPA's January 26, 2018 decision not to withdraw the 2014 Proposed Determination (PD) includes a commitment to seek additional public comment: "The Agency intends at a future time to solicit public comment on what further steps, if any, the Agency should take in the Section 404(c) process in order to prevent unacceptable adverse effects to the watershed's world-class fisheries in light of the permit application that has now been submitted to the Corps."

II. BACKGROUND

A. Section 404(c) Process

- EPA initiated this Section 404(c) process in 2014, issued a PD, and took public comment on the PD, but was prevented from responding to the public comments or completing its CWA Section 404(c) review because of a preliminary injunction associated with litigation brought by Pebble.
- A PD is the second step in EPA's four step CWA Section 404(c) review process of: 1) Initiation, 2) PD, 3) Recommended Determination (RD), and 4) Final Determination (FD) (40 CFR part 231). The relevant Region issues the PD and RD, and HQ-OW issues the FD that either rescinds, modifies, or affirms the RD (40 CFR 231.6).
 - A PD is issued if the Regional Administrator determines that unacceptable adverse effects "could result." An RD requires a determination that such effects "would be likely" to result and an affirmative FD that imposes restrictions or prohibitions requires a determination that such effects "will result" (40 CFR 231.3, 231.5, and 231.6).
- Under the terms of EPA's May 2017 settlement agreement with Pebble that resolved outstanding litigation, EPA can issue a new or modified PD, or withdraw the PD, at any time.
 - If EPA were to issue a new or modified PD, EPA would need to solicit public comment consistent with EPA's regulations.
- The timing associated with the next step in the 404(c) process, the RD, is limited by the settlement agreement: Region 10 may not forward a signed RD, if such a decision is made, to HQ before either May 11, 2021, or until the U.S. Army Corps of Engineers (Corps) completes a final Environmental Impact Statement (EIS) on Pebble's CWA Section 404 permit application, whichever comes first.

- If at some point, after the time limits in the settlement agreement expire, Region 10 decides to forward an RD to HQ, EPA's 404(c) regulations do not require a public comment period at that time. In making a decision whether to issue an FD, EPA HQ must consult with the Corps, the relevant landowner, and the State.

B. Basis for 404(c) Decision-making

1. 2014 PD

- The 2014 PD is based, in part, on the Bristol Bay Watershed Assessment (BBWA), which evaluated the impacts of three potential mine scenarios at the Pebble deposit (0.25, 2.0 and 6.5 billion-ton mines) on fishery resources.
- The BBWA evaluated the impacts associated with the construction and routine operation of these three mine scenarios (including its transportation corridor), as well as the impacts of a series of possible accidents and failures that occur at mines of this type.
- The BBWA considered all compensatory mitigation information provided as of 2013 by Pebble and other commenters.
- The restrictions in the 2014 PD are based on an analysis of the direct and secondary impacts on fishery areas of the discharge of dredged or fill material into waters of the U.S. associated with the construction and routine operation of the 0.25 billion-ton mine scenario.
- The 2014 PD is focused just on the mine site, and does not address impacts from other project elements, such as the transportation corridor or a port on Cook Inlet or from any possible accidents or failures.

Ex. 5 - Deliberative Process\Attorney Client

Ex. 5 - Deliberative Process\Attorney Client

III. OPTIONS DISCUSSION

Ex. 5 - Deliberative Process\Attorney Client

[PAGE * MERGEFORMAT]

Ex. 5 - Deliberative Process\Attorney Client

[PAGE * MERGEFORMAT]

IV. RECOMMENDATION

Ex. 5 - Deliberative Process\Attorney Client

[PAGE * MERGEFORMAT]



[SEQ CHAPTER \h \r 1]Meeting/Event Request for Region 10 - Office of the Regional Administrator

Please submit this form for any official briefings/updates for the RA/DRA or event attendance requests.

Today's Date:

2/6/18

Requesting Office:

R10, OERA

Title/Topic of the Meeting/Event (please define any acronyms):

Bristol Bay 404(c) Post No-Withdrawal Comment Period Options

Administrator or Deputy Administrator or Both?

R10 RA and DRA, HQ OW Deputy AA Lee Forsgren, HQ OGC Deputy General Counsel David Fotouhi

Purpose (informational, decisional, other):

Provide options and recommendations regarding future comment period(s) for the Bristol Bay 404(c) process

Role of RA/DRA:

RA initiates 404(c) actions, notices Proposed Determinations, and prepares Recommended Determinations. If a RD is forwarded, the AA for Water offers opp. for corrective action then affirms, modifies, or rescinds the RD

Last possible date for the meeting (if urgent, explain why) or date of event:

Prefer to meet between February 22 and March 2nd.

Requested Time Length:

1 hour

EPA Staff (Required):

David Allnutt, Ashley Palomaki, Carrie Wehling and/or Heidi Nalven, Palmer Hough, John Goodin, Erik Peterson

EPA Staff (Optional):

Cara Steiner-Riley, Steven Neugeboren, Ashley Palomaki, Russel Kaiser, Brittany Bennett, Suzanne Skadowski, Nevery Shoemake, Patricia McGrath,

External Participants (please provide email address and/or point of contact):

N/A

Audio Line or Video Conference or other technology needs required (provide details)?

Conference line

*NOTE: Please submit Meeting Requests to [[HYPERLINK "mailto:R10-ORA@epa.gov"](mailto:R10-ORA@epa.gov)]. All briefing materials must be provided by 3:00 pm **three days before** your meeting or the meeting may be rescheduled.*

Point of Contact for the Meeting:

Erik Peterson, 206-553-6382

*NOTE: Please submit Meeting Requests to [[HYPERLINK "mailto:R10-ORA@epa.gov"](mailto:R10-ORA@epa.gov)]. All briefing materials must be provided by 3:00 pm **three days before** your meeting or the meeting may be rescheduled.*

Appointment

From: Holsman, Marianne [Holsman.Marianne@epa.gov]
Sent: 3/6/2018 7:28:42 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in [Ex. 6 - Personal Privacy] passcode [Ex. 6 - Personal Privacy]
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM

Recurrence: (none)

Appointment

From: Microsoft Outlook [MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usepa.onmicrosoft.com]
Sent: 3/6/2018 7:28:39 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Meeting Forward Notification: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in Ex. 6 - Personal Privacy ASSCOD Ex. 6 - Personal Privacy
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM

Recurrence: (none)

Your meeting was forwarded

Holsman, Marianne has forwarded your meeting request to additional recipients.

Meeting

Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Meeting Time

Wednesday, March 7, 2018 4:00 PM-5:00 PM.

Recipients

Holsman, Marianne

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server

Appointment

From: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Sent: 3/6/2018 5:50:35 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM

Recurrence: (none)

Appointment

From: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Sent: 3/5/2018 5:07:39 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM

Recurrence: (none)

Appointment

From: Nalven, Heidi [Nalven.Heidi@epa.gov]

Sent: 3/1/2018 7:09:55 PM

To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy

Start: 3/7/2018 9:00:00 PM

End: 3/7/2018 10:00:00 PM

Show Time As: Busy

Appointment

From: Tyson, Linda [Tyson.Linda@epa.gov]
Sent: 3/1/2018 7:05:49 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]

Sent: 3/1/2018 6:50:52 PM

To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in

Ex. 6 - Personal Privacy

 passcode

Ex. 6 - Personal Privacy

Start: 3/7/2018 9:00:00 PM

End: 3/7/2018 10:00:00 PM

Show Time As: Busy

Appointment

From: Palomaki, Ashley [Palomaki.Ashley@epa.gov]

Sent: 3/1/2018 6:45:37 PM

To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in Ex. 6 - Personal Privacy Passcode Ex. 6 - Personal Privacy

Start: 3/7/2018 9:00:00 PM

End: 3/7/2018 10:00:00 PM

Show Time As: Busy

Appointment

From: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Sent: 2/13/2018 10:50:50 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in Ex. 6 - Personal Privacy Passcode Ex. 6 - Personal Privacy
Start: 3/6/2018 7:00:00 PM
End: 3/6/2018 8:00:00 PM

Recurrence: (none)

Appointment

From: Wehling, Carrie [Wehling.Carrie@epa.gov]

Sent: 3/1/2018 6:44:18 PM

To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy

Start: 3/7/2018 9:00:00 PM

End: 3/7/2018 10:00:00 PM

Show Time As: Busy

Appointment

From: Microsoft Outlook [MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usepa.onmicrosoft.com]
Sent: 2/13/2018 10:44:09 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Meeting Forward Notification: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy
Start: 3/6/2018 7:00:00 PM
End: 3/6/2018 8:00:00 PM

Recurrence: (none)

Your meeting was forwarded

Hough, Palmer has forwarded your meeting request to additional recipients.

Meeting

Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Meeting Time

Tuesday, March 6, 2018 2:00 PM-3:00 PM.

Recipients

Stern, Allyn

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server

Appointment

From: Fotouhi, David [Fotouhi.David@epa.gov]

Sent: 3/1/2018 6:43:04 PM

To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy

Start: 3/7/2018 9:00:00 PM

End: 3/7/2018 10:00:00 PM

Show Time As: Busy

Appointment

From: Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]

Sent: 2/13/2018 8:07:18 PM

To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy

Start: 3/6/2018 7:00:00 PM

End: 3/6/2018 8:00:00 PM

Show Time As: Busy

Message

From: Penman, Crystal [Penman.Crystal@epa.gov]
Sent: 3/1/2018 6:42:40 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

done

From: Forsgren, Lee
Sent: Thursday, March 1, 2018 12:49 PM
To: Penman, Crystal <Penman.Crystal@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
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Sent: 3/1/2018 5:50:36 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Penman, Crystal [Penman.Crystal@epa.gov]
CC: Goodin, John [Goodin.John@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Steve is out of the office on sick leave. Carrie Wehling and Heidi Nalven from OGC should be included.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

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Where: 3233 WJCE

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To: Goodin, John [Goodin.John@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]
CC: Fotouhi, David [Fotouhi.David@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

From my end: David Allnut, Ashley Palomaki, Erik Peterson and myself. Thanks

Chris Hladick
Regional Administrator
U.S. Environmental Protection Agency, Region 10
Office: (206) 553-1234
Cell: (206) 247-2946
Fax: (206) 553-1809

From: Goodin, John
Sent: Thursday, March 1, 2018 9:34 AM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Thanks, Lee. Recommend from OW (in addition to you) Palmer Hough, Russ Kaiser, and me. I defer to David and Chris re: their attendees. You are the owner of the invite and can have Crystal cancel/resend with new attendees.

Thanks
John

From: Forsgren, Lee
Sent: Thursday, March 01, 2018 11:13 AM
To: Goodin, John <Goodin.John@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

John,

I just talked to Chris Hladick and we both agree that this meeting has grown way too large. We need to scale it back to no more than 4 OW staff including me, 4 from R10 including Chris, 2 from OGC including Dave Fotouhi and Sarah Greenwalt.

We can't be forthcoming enough to discuss options with 60 people involved.

Lee

-----Original Appointment-----

From: Tyson, Linda **On Behalf Of** Hladick, Christopher
Sent: Thursday, March 1, 2018 11:06 AM
To: Forsgren, Lee
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

When: Wednesday, March 7, 2018 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 3233 WJCE

Message

From: Goodin, John [Goodin.John@epa.gov]
Sent: 3/1/2018 5:34:26 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
CC: Fotouhi, David [Fotouhi.David@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

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From: Forsgren, Lee
Sent: Thursday, March 01, 2018 11:13 AM
To: Goodin, John <Goodin.John@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
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Sent: Thursday, March 1, 2018 11:06 AM
To: Forsgren, Lee
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
When: Wednesday, March 7, 2018 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 3233 WJCE

Appointment

From: Wehling, Carrie [Wehling.Carrie@epa.gov]

Sent: 2/12/2018 7:38:26 PM

To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy

Start: 3/6/2018 8:00:00 PM

End: 3/6/2018 9:00:00 PM

Show Time As: Busy

Appointment

From: McGrath, Patricia [mcgrath.patricia@epa.gov]

Sent: 3/1/2018 5:21:07 PM

To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE

Start: 3/7/2018 9:00:00 PM

End: 3/7/2018 10:00:00 PM

Show Time As: Busy

Appointment

From: Microsoft Outlook [MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usepa.onmicrosoft.com]
Sent: 2/12/2018 7:04:37 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Meeting Forward Notification: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy
Start: 3/6/2018 8:00:00 PM
End: 3/6/2018 9:00:00 PM

Recurrence: (none)

Your meeting was forwarded

Kaiser, Russell has forwarded your meeting request to additional recipients.

Meeting

Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Meeting Time

Tuesday, March 6, 2018 3:00 PM-4:00 PM.

Recipients

Hough, Palmer

Goodin, John

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server

Appointment

From: Shoemake, Neverley [shoemake.neverley@epa.gov]
Sent: 3/1/2018 4:59:32 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Tentative: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

Appointment

From: Microsoft Outlook [MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usepa.onmicrosoft.com]
Sent: 2/12/2018 6:59:45 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Meeting Forward Notification: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy
Start: 3/6/2018 8:00:00 PM
End: 3/6/2018 9:00:00 PM

Recurrence: (none)

Your meeting was forwarded

Palomaki, Ashley has forwarded your meeting request to additional recipients.

Meeting

Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Meeting Time

Tuesday, March 6, 2018 3:00 PM-4:00 PM.

Recipients

Allnutt, David

Wehling, Carrie

Nalven, Heidi

Hough, Palmer

Goodin, John

Peterson, Erik

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server

Appointment

From: Stern, Allyn [Stern.Allyn@epa.gov]
Sent: 3/1/2018 4:42:55 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM

Recurrence: (none)

Appointment

From: Palomaki, Ashley [Palomaki.Ashley@epa.gov]

Sent: 2/12/2018 6:56:51 PM

To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy

Start: 3/6/2018 8:00:00 PM

End: 3/6/2018 9:00:00 PM

Show Time As: Busy

Message

From: Fotouhi, David [Fotouhi.David@epa.gov]
Sent: 2/12/2018 6:53:43 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Re: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Lee: do you have any insights on the timing here? Waiting nearly another month to discuss timing seems problematic to me. Thanks.

Sent from my iPhone

On Feb 12, 2018, at 1:49 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

<mime-attachment.ics>

<R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx>

Appointment

From: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]
Sent: 3/1/2018 3:49:42 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

Appointment

From: Bennett, Brittany [bennett.brittany@epa.gov]

Sent: 2/12/2018 6:50:02 PM

To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404(c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy

Start: 3/6/2018 8:00:00 PM

End: 3/6/2018 9:00:00 PM

Show Time As: Busy

Appointment

From: Microsoft Outlook [MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usepa.onmicrosoft.com]
Sent: 2/27/2018 5:53:10 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Meeting Forward Notification: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: DCRoomEast2369B/DC-ICC-OW-IO

Start: 3/6/2018 7:00:00 PM
End: 3/6/2018 8:00:00 PM

Recurrence: (none)

Your meeting was forwarded

Skadowski, Suzanne has forwarded your meeting request to additional recipients.

Meeting

Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Meeting Time

Tuesday, March 6, 2018 2:00 PM-3:00 PM.

Recipients

Peterson, Erik

Palomaki, Ashley

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server

Appointment

From: DCRoomEast2369B/DC-ICC-OW-IO [DCRoomEast2369B@epa.gov]
Sent: 2/27/2018 5:50:00 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Tentative: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: DCRoomEast2369B/DC-ICC-OW-IO

Start: 3/6/2018 7:00:00 PM
End: 3/6/2018 8:00:00 PM

Recurrence: (none)

Your request was received and is pending approval.

Sent by Microsoft Exchange Server 2016

Message

From: Forsgren, Lee [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: 3/1/2018 6:47:14 PM
To: Penman, Crystal [Penman.Crystal@epa.gov]
Subject: Re: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Thanks

Sent from my iPhone

On Mar 1, 2018, at 1:42 PM, Penman, Crystal <Penman.Crystal@epa.gov> wrote:

done

From: Forsgren, Lee
Sent: Thursday, March 1, 2018 12:49 PM
To: Penman, Crystal <Penman.Crystal@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Crystal,

Cancel this meeting and resend only to the OW staff John recommends – R10 – Chris Hladick David Allnut, Ashley Palomaki, Erik Peterson, David Fotouhi, Steve Neugeboren, and Sarah Greenwalt. Meeting is nontransferable.

Thanks,
Lee

From: Goodin, John
Sent: Thursday, March 1, 2018 12:34 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
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From: Forsgren, Lee
Sent: Thursday, March 01, 2018 11:13 AM
To: Goodin, John <Goodin.John@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
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Lee

-----Original Appointment-----

From: Tyson, Linda **On Behalf Of** Hladick, Christopher

Sent: Thursday, March 1, 2018 11:06 AM

To: Forsgren, Lee

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

When: Wednesday, March 7, 2018 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 3233 WJCE

Message

From: Forsgren, Lee [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: 3/1/2018 5:57:26 PM
To: Fotouhi, David [fotouhi.david@epa.gov]
CC: Penman, Crystal [Penman.Crystal@epa.gov]
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

That is fine. The meeting had just gotten way way too big. North of 40 people most of whom I had no idea who they were or why they were coming.

From: Fotouhi, David
Sent: Thursday, March 1, 2018 12:51 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Penman, Crystal <Penman.Crystal@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Steve is out of the office on sick leave. Carrie Wehling and Heidi Nalven from OGC should be included.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Forsgren, Lee
Sent: Thursday, March 1, 2018 12:49 PM
To: Penman, Crystal <Penman.Crystal@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

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Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
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Where: 3233 WJCE

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From: Forsgren, Lee [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: 3/1/2018 5:48:47 PM
To: Penman, Crystal [Penman.Crystal@epa.gov]
CC: Goodin, John [Goodin.John@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

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Where: 3233 WJCE

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Sent: 3/1/2018 4:13:06 PM
To: Goodin, John [Goodin.John@epa.gov]
CC: Fotouhi, David [fotouhi.david@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

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Sent: Thursday, March 1, 2018 11:06 AM
To: Forsgren, Lee
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
When: Wednesday, March 7, 2018 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 3233 WJCE

Appointment

From: Penman, Crystal [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]
Sent: 2/13/2018 6:30:05 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]
CC: Tyson, Linda [Tyson.Linda@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Shoemake, Neverley [shoemake.neverley@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WjCE Call in: Ex. 6 - Personal Privacy passcode: Ex. 6 - Personal Privacy
Start: 3/6/2018 7:00:00 PM
End: 3/6/2018 8:00:00 PM
Show Time As: Busy

Appointment

From: Forsgren, Lee [Forsgren.Lee@epa.gov]
Sent: 3/1/2018 6:42:35 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]
Subject: Bristol Bay 404 (c) ~~Post No Withdrawal~~ Comment period Options
Location: 3233 WJCE Call in

Ex. 6 - Personal Privacy

 passcode

Ex. 6 - Personal Privacy

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

Appointment

From: Forsgren, Lee [Forsgren.Lee@epa.gov]
Sent: 3/1/2018 6:42:35 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]
Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Tentative

Appointment

From: Penman, Crystal [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]
Sent: 3/1/2018 1:19:46 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]
CC: Tyson, Linda [Tyson.Linda@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Shoemake, Neverley [shoemake.neverley@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Connors, Sandra [Connors.Sandra@epa.gov]
Subject: Canceled: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Free
Importance: High

Appointment

From: Penman, Crystal [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]
Sent: 3/1/2018 1:19:46 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]
CC: Tyson, Linda [Tyson.Linda@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Shoemake, Neverley [shoemake.neverley@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Connors, Sandra [Connors.Sandra@epa.gov]
Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE
Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

Appointment

From: Penman, Crystal [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]
Sent: 2/13/2018 6:30:05 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]
CC: Tyson, Linda [Tyson.Linda@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Shoemake, Neverley [shoemake.neverley@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Start: 3/7/2018 3:00:00 PM
End: 3/7/2018 4:00:00 PM
Show Time As: Tentative

Appointment

From: McGrath, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a069b6877f4eb985d83829c51ea4fa-McGrath, Pa]
Sent: 2/14/2018 4:12:44 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call i Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy

Start: 3/6/2018 7:00:00 PM
End: 3/6/2018 8:00:00 PM
Show Time As: Busy

Appointment

From: McGrath, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a069b6877f4eb985d83829c51ea4fa-McGrath, Pa]
Sent: 2/12/2018 10:17:20 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Location: 3233 WJCE Call in Ex. 6 - Personal Privacy passcode Ex. 6 - Personal Privacy

Start: 3/6/2018 8:00:00 PM

End: 3/6/2018 9:00:00 PM

Show Time As: Busy

United States Army Corps of Engineers
Alaska District-Regional Regulatory Division
Cooperating Agency Coordination Plan
DA permit application POA-2017-271,
Requiring Environmental Impact Statement Level of Analysis

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INTRODUCTION

This document describes the roles and responsibilities of the various cooperating agencies in order to establish a protocol for communication, early identification and resolution of issues, and to resolve issues that could delay completion of the environmental impact statement (EIS) and respective records of decision (ROD) for action agencies.

LEAD AGENCY

The U.S. Army Corps of Engineers (USACE) is the lead federal agency for completion of the EIS. The responsibility of the lead agency is to ensure compliance with applicable laws and regulations (i.e. National Environmental Policy Act (NEPA), Clean Water Act, etc.) USACE is responsible for managing the EIS process and schedule and the final content of the EIS, identifying and selecting cooperating agencies, and involving the public in the process. USACE will select a third party contractor in accordance with Regulatory Guidance Letter No. 05-08 for preparation of the EIS. The Council of Environmental Quality (CEQ) regulations implementing the NEPA govern the cooperating agency relationship for all Federal agencies preparing EISs under the NEPA. The USACE's regulations and policies regarding cooperating agencies are in agreement with those of CEQ.

DETERMINATION OF ELIGIBILITY FOR COOPERATING AGENCY STATUS

State agencies, local governments, Tribal governments, and other Federal agencies may be eligible to serve as cooperating agencies. Other than its provisions for Tribes (see subsection Eligibility of Tribes), CEQ regulations recognize two criteria for Cooperating Agency (CA) status: jurisdiction by law and special expertise.

DEFINING ELIGIBILITY 40 CFR 1508.5 (CEQ)

“Cooperating agency” means any federal agency other than a lead agency, which has “jurisdiction by law” or “special expertise” with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major federal actions significantly affecting the quality of the human environment

....A state or local agency of similar qualifications or, when the effects are on a reservation, an Indian tribe, may by agreement with the lead agency become a cooperating agency.

JURISDICTION BY LAW 40 CFR 1508.15 (CEQ)

“Jurisdiction by law” means agency authority to approve, veto, or finance all or part of the proposal.

Jurisdiction by law offers a very specific basis for CA status and clearly states its statutory obligation to assist in EIS development and implementation.

SPECIAL EXPERTISE 40 CFR 1508.26 (CEQ)

“Special expertise” means statutory responsibility, agency mission, or related program experience.

Special expertise provides a broader window for CA status, emphasizing the relevant capabilities or knowledge that a Federal, Tribal, State, or local governmental entity can contribute to the EIS stemming from its statutory responsibilities or agency mission.

ELIGIBILITY OF TRIBES 40 CFR 1508.5 (CEQ)

The CEQ regulations specify that a Tribe is eligible for CA status “when the effects [of an undertaking] are on a reservation”.

The CA relationship is not a replacement or substitution for the government to government relationship with a Tribal government. The USACE has responsibilities under other laws, regulations, and policies to consult with Tribes when privately proposed projects requiring federal authorization affect resources important to Tribes. The USACE has extended government to government consultation invitations to 35 federally recognized tribes. Additional information about the Tribal consultation process for the projects requiring DA authorization under the regulatory program can be found in the Tribal Consultation Plan.

IDENTIFYING AND INVITING POTENTIAL COOPERATING AGENCIES

CEQ regulations permit a lead agency to invite other eligible agencies and governments to assume a cooperating agencies role “at the earliest possible time” (40 CFR 1501.6). Project Managers are expected to make a reasonable effort to identify Federal, Tribal, State and local entities possessing *jurisdiction by law* or *special expertise* concerning the area potentially affected by the project. Conversely, when a government entity requests CA status, the request must be evaluated against CA eligibility criteria. If either of the criteria (*jurisdiction by law* or *special expertise*) is met, CA status can be granted at the discretion of the Lead Agency

USACE will identify and invite agencies in accordance with the above definitions. The proposed project is located on state owned and privately owned land. USACE has identified four federal agencies (USACE, USCG, BSEE, PHMSA) that have jurisdiction by law and are required to produce records of decision for activities associated with the proposed project, two federal agencies that have jurisdiction by law with required consultations (NMFS, USFWS) and two federal agencies that have been invited for specific special expertise (USEPA, ACHP). In addition USACE has invited the State of Alaska for multiple approval authorities and special expertise.

To establish Federal and State CA status, the USACE will send a Letter of Invitation to the eligible government entity. The Letter of Invitation will include a brief outline of the role(s) of the specific CA in the EIS and invite the agency to an agency scoping meeting prior to the agency providing response to the invitation. To establish the formal CA relationship, the eligible federal or state government entity will send a written response back to the USACE stating their intent to serve as a CA in the EIS along with their ability to fulfill responsibilities identified in the USACE invitation letter.

USACE will systematically identify other entities that may bring special expertise to the EIS analysis and will invite those entities based on identified need.

SEE APPENDIX A FOR COOPERATING AGENCY IDENTIFICATION AND RATIONALE FOR THE PROPOSED PROJECT AND COOPERATING AGENCY INVITATION LETTERS.

ROLES AND RESPONSIBILITIES OF LEAD AND COOPERATING AGENCIES

The CEQ regulations call for early and significant involvement by cooperating agencies in the preparation of an EIS. Both lead and cooperating agencies assume significant obligations in offering and accepting the CA relationship. As the lead agency, the USACE is expected to use the analysis and proposals of a CA “to the maximum extent possible consistent with its responsibility” (40 CFR 1501.6 (a) (2)).

CAs agree to contribute staff to the cooperating agency team, develop analyses for which they have particular expertise, and fund their own participation. Once becoming a CA partner, the agency remains a CA throughout the entire NEPA process, unless they withdraw due to exhausted resources or funding.

ROLES OF LEAD AND COOPERATING AGENCIES 40 CFR 1501.6 (CEQ)

(a) The lead agency shall:

1. Request the participation of each cooperating agency in the NEPA process at the earliest possible time.
2. Use the environmental analysis and proposals of cooperating agencies with “jurisdiction by law” or “special expertise,” to the maximum extent possible consistent with its responsibility as lead agency.
3. Meet with a cooperating agency at the latter’s request.

b) Each cooperating agency shall:

1. Participate in the NEPA process at the earliest possible time.
2. Participate in the scoping process.
3. Agencies with jurisdiction by law will provide agency required screening criteria for alternatives development.
4. Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has “special expertise”.
5. Make available staff support at the lead agency’s request to enhance the latter’s interdisciplinary capability. Normally use its own funds.

The roles and responsibilities for each CA will be formalized when the cooperating agency team is formed, scoping is completed, and the team is aware of potential gaps in cooperating agency team knowledge.

USACE’s intent is to involve cooperating agencies early and identify specific roles to be fulfilled by cooperators to allow for the agency to focus their efforts, keep relevant information familiar, and assist in timely work product and reviews.

The USACE will provide reasonable timelines for CAs to complete their responsibilities, and USACE may approve extensions to specific timelines upon reasonable request of a CA where sufficient justification is provided by the CA. It will be the responsibility of each CA to inform USACE in writing if their respective agency does not have adequate resources to participate in the process, produce requested analysis, and/or meet the required review periods.

GENERAL COOPERATING AGENCY EXPECTATIONS

THE FOLLOWING INFORMATION IS DESIGNED TO GIVE AN OVERVIEW OF EXPECTATIONS OF COOPERATING AGENCIES FROM EIS INITIATION THROUGH COMPLETION.

EIS INITIATION. The USACE will compile all relevant scientific research and ecological models that exist, develop a preliminary scope for the EIS, draft our agency purpose and need statement (why USACE is required to develop EIS) and develop a set of communication tools (website, meeting points). At this stage of the process, informal discussions with potential cooperating agencies will occur, followed by an agency scoping meeting, and formal invitations for CA status.

Roles for CAs: Determine agency capabilities to enter into CA relationship. Appoint a member (and potentially alternate) to serve on the cooperating agency management team and coordinate all internal resource efforts specific to the agency.

See Appendix B for agency designated personnel to serve as point of contact for this project.

DEFINE PURPOSE AND NEED & ASSESS THE AFFECTED ENVIRONMENT

This phase includes all activities required to initiate preparation and development of an EIS. It includes notifying the public of the project by publishing a Notice of Intent in the Federal Register and initiating the public scoping process; defining the project purpose, need, and objectives statements through public scoping meetings for incorporation into the draft EIS; developing a conceptual ecological model; and succinctly describing the existing environmental conditions and resource baselines in the Affected Environment Section of the draft EIS.

Roles for CAs: Federal agencies required to develop a record of decision should identify the specific purpose and need to which the agency is responding (Agency is required to make X permit decision under Y authority). These agencies should also identify any required alternatives screening criteria. For example, USACE is has screening criteria associated w All cooperating agencies will be asked to participate in identifying the NEPA purpose and need for the proposed project. Participate in scoping and collaborate in assessing scoping comments. Identify data needs; provide data and technical analyses within CA's expertise. Provide information (such as local monitoring and baseline data) for affected resource modeling and draft affected environment section of the EIS and help interpret model results as appropriate.

CONSIDER ALTERNATIVES WITH SCOPING (PUBLIC) INPUT

The EIS lead and cooperating agency team will utilize public input to formulate a suite of reasonable alternatives to achieve the purpose and need of the proposed project. The information gathered during this phase will be used to prepare the Alternatives Chapter of the draft EIS.

Roles for CAs: Review alternatives proposed by public and suggest potential alternatives. For agencies with jurisdiction by law, ensure proposed alternatives take into consideration agency required screening criteria.

ANALYZE IMPACTS

Cooperating Agencies will be assigned to technical teams based on special expertise and jurisdiction by law. The CA will assist in analyzing the impacts (adverse and beneficial) and the significance of impacts on the environment of the area(s) to be affected or created by the alternatives under consideration. These impacts will be documented in the Environmental Consequences Chapter of the draft EIS.

Roles for CAs: Suggest models and methods for impact analyses; provide effects analysis within CA's expertise; identify direct, indirect, and cumulative effects within CA's expertise; suggest mitigation measures for adverse effects.

WRITE/REVIEW/COMMENT/RESOLVE

This phase will consist of consolidating all prepared draft chapters and appendices into a complete draft EIS and release of the document to all interested parties. Public hearings will be conducted and comments will be solicited.

Roles for CAs: Collaborate with the USACE in evaluating alternatives; provide information for draft EIS. Resolve agency comments within jurisdiction by law or special expertise prior to public release of draft. Participate in hearings. Work with the USACE to understand and evaluate public comments.

Dispute Resolution:

Should significant differences exist between the USACE and any CA regarding EIS content, process or procedures, every effort will be made to resolve these differences, including using available alternative approaches to dispute resolution techniques. Issues that cannot be resolved at the staff level may be elevated to the Regional Regulatory Division Chief and appropriate level for CA (GS-15 or equivalent). The Regional Regulatory Division Chief will render final decisions on all elements of USACE's EIS. If the Regional Regulatory Division Chief's decision is contrary to the position of a CA, the USACE will determine if the differing positions can be clearly presented in the EIS. If so, the differing positions will be included in the EIS for the public review and comment.

CONSIDER COMMENTS AND FINALIZE EIS

This phase includes all the activities necessary to consider and respond to comments received on the draft EIS, revise (especially changes to alternatives or impact analysis conclusions) and finalize EIS, prepare the document for printing and print the required copies, prepare and publish a Notice of Availability for the final EIS.

Roles for CAs: Review comments and assist with interpreting, and understanding public comments that relate to the agency jurisdictions or special expertise, to assist USACE in preparing responses. Suggest changes to alternatives or analysis as appropriate when comments dictate.

Please see Appendix C for specific Coordination Points, Information Requirements and Responsibilities for this project.

NOTE: There is no expectation that any cooperating agency will participate in review outside of agency jurisdiction by law or special expertise. Agencies that would like to comment more broadly should anticipate doing so during the scheduled public review and comment.

The schedule will include major EIS milestones consistent with statutory and regulatory requirements, in order to encompass the full environmental review process. The USACE will provide details in the schedule that are applicable to cooperating agency responsibilities. The USACE will use its discretion as lead agency in deciding the level of detail for the cooperating agency schedule with the objective of communicating clear expectations for the overall effort. The USACE will provide reasonable timelines for CAs to complete their responsibilities. A draft schedule has been provided to facilitate discussion. A final schedule will not be produced until after public scoping has occurred and the agencies have had opportunity to identify data gaps and any additional requirements identified as a result of scoping.

AGENCY WRITING AND REVIEW TIME

Agencies will be actively involved in the development of the Draft EIS within their respective areas jurisdiction by law or special expertise. Specific development and revision periods will be identified in the project schedule.

ALL PUBLIC REVIEW AND CIRCULATION PERIODS WILL BE IDENTIFIED IN THE PROJECT SCHEDULE AND WILL BE CONSISTENT WITH NEPA REQUIREMENTS.

COOPERATING AGENCY GUIDANCE ON PROJECT COMMUNICATIONS

CAs are encouraged to engage in robust discussion and debate during CA meetings and topical discussions on affected resources. These meetings ensure that all cooperating voices are heard throughout the EIS process and that multiple views can be thoroughly discussed. The USACE will not use the exchange that occurs within these meetings as a substitute for agency position or comments. The USACE requires that formal CA comments on work products of the EIS be submitted on agency letterhead, signed by the agency's designated official, within the time frames agreed upon in the approved project schedule. These letters may be submitted electronically to the designated project email address: poaspecialprojects@usace.army.mil. **All agency correspondence will be made part of the public record upon receipt.**

APPENDIX A. ENTITIES IDENTIFIED TO PARTICIPATE IN THE EIS PROCESS AND COOPERATING AGENCY INVITATION LETTERS

Federal Lead Agency and agencies invited to participate due to Federal Decision Making Authority

PERMIT: Discharge of Fill Material in Wetlands

USACE Environmental Impact Statement used to inform Agency Record of Decision (Yes/No): Yes

Decision Agency: United States Army Corps of Engineers (Lead Agency)

Authority: Section 404 of the Clean Water Act

PERMIT: Activities in Navigable Waters

USACE Environmental Impact Statement used to inform Agency Record of Decision (Yes/No): Yes

Decision Agency: United States Army Corps of Engineers (Lead Agency)

Authority: Section 10 of the Rivers and Harbors Appropriation Act of 1899

PERMIT: Bridge or Pipeline Crossing Navigable Waters

USACE Environmental Impact Statement used to inform Agency Record of Decision (Yes/No): Yes

Decision Agency: United States Coast Guard

Authority: General Bridge Act of 1946 as amended by 33 USC 525-533

RIGHT OF WAY: Natural Gas Pipeline through outer Continental Shelf

USACE Environmental Impact Statement used to inform Agency Record of Decision (Yes/No): Yes

Decision Agency: United States Bureau of Safety and Environmental Enforcement

Authority: 30 CFR 250 Subpart J

SPECIAL PERMIT: variations from current regulations for pipeline design/construction **Undetermined at this time**

USACE Environmental Impact Statement used to inform Agency Record of Decision (Yes/No):

Decision Agency: United States Department of Transportation Pipeline and Hazardous Materials Safety Administration

Authority:

Federal Agencies Invited due to jurisdiction by law with required consultations and special expertise

Endangered Species Act (Section 7 Consultation-Terrestrial Species)
Consulting Agency: United States Fish and Wildlife Service
Biological Assessment(s) to be included in EIS: Yes
Section 9 Permit required: Unknown at this time
Species:
Authority: Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
Special Expertise requested: Fish and Wildlife Resources
Endangered Species Act (Section 7 Consultation-Marine Species)
Consulting Agency: National Marine Fisheries Service
Biological Assessment(s) to be included in EIS: Yes
Section 9 Permit required: Unknown at this time
Species:
Authority: Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
Special Expertise requested: Marine Mammals, Fisheries
Magnuson-Stevens Fishery Conservation and Management Act
Essential Fish Habitat
Consulting Agency: National Marine Fisheries Service
Essential Fish Habitat Assessment to be included in EIS: Yes
National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.)
Advising Agency: Advisory Council on Historic Preservation
Draft Programmatic Agreement to be included in EIS: Yes
Special Expertise requested: Historic Properties, Section 106 compliance
Consulting Agency: Alaska State Historic Preservation Office
Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.)

Consulting Agencies: Fish and Wildlife Service, National Marine Fisheries Service, Alaska Department of Fish and Game

State of Alaska Invited due to jurisdiction by law and special expertise (abbreviated due to extent of involvement)

Alaska Department of Environmental Conservation

Wastewater discharge, Clean Water Act Sections 401 and 402 permits, air quality permit jurisdiction

Alaska Department of Fish and Game

Title 16 Fish Habitat Permitting (any activity occurring below the ordinary high water mark in an anadromous fish stream or any fresh waterbody with the potential to block fish passage, emergency permits, and field permits)

Hazing permits

Special Area Permits/assessments

Fish Collection Permits for monitoring.

Alaska Department of Natural Resources State Historic Preservation Office

Cultural Resources, Historic Properties, Section 106 consultation

Alaska Department of Natural Resources Department of Mine, Lands, and Water

Mine Permitting (reclamation & closure and Plan of Operations approvals, mill site lease, upland mining lease, material sales, certificate to construct a dam, certificate to operate a dam, mining license, miscellaneous land use permit, right-of-way, tideland lease, general mine design, temporary water use authorization, permit to appropriate water)

Alaska Department of Health and Social Services

Needs and welfare of the people, health risk assessment

Alaska Department of Natural Resources State Pipeline Coordinator's Office

Pipeline Right of Way

Agencies and government entities invited for Special Expertise

United States Environmental Protection Agency

Special Expertise: 404(b)(1) guidelines of Section 404 Clean Water Act

Other government entities to be invited at the discretion of USACE as the need for special expertise is identified.

APPENDIX B. AGENCY COOPERATING AGENCY TEAM MEMBER CONTACT INFORMATION

MANAGEMENT CONTACTS FOR AGENCIES

Agency	Contact Person/Title	Phone	E-mail
USACE	Sheila Newman	907-753-5556	Sheila.m.newman@usace.army.mil
BSEE	John McCall	907-334-5300	John.mccall@bsee.gov
USCG	David Seris	907 463-2267	David.M.Seris@uscg.mil
USDOT-PHMSA	Linda Daugherty	816-329-3821	linda.daugherty@dot.gov
State of Alaska	Kyle Moselle	907-465-6849	Kyle.moselle@alaska.gov
ACHP	John Eddins	202-517-0211	jeddins@achp.gov
USFWS	Doug Cooper	907-271-2787	Douglas_Cooper@fws.gov
NOAA-NMFS	Greg Balough Doug Limpinsel Jolie Harrison	907 271-3023 907 271-6379 301 427-8401	Greg.balough@noaa.gov Doug.Limpinsel@noaa.gov Jolie.Harrison@noaa.gov
USEPA	Patty McGrath	206-553-6113	Mcgrath.patricia@epa.gov

APPENDIX C. COORDINATION POINTS, INFORMATION REQUIREMENTS AND RESPONSIBILITIES

The following coordination points are key meeting collaboration points to ensure an efficient process.

Coordination Point	Meeting Purpose	Deliverables	Agency Involvement
Notice of Intent EIS	Send cooperating agencies a copy of the NOI; Invite agencies to agency scoping meeting		USACE
Agency Scoping Meeting	Overview of project, Draft P&N, and applicant prepared alternatives, Coop Agency Coordination Plan	Agencies Respond to Cooperating Request within specified timeframe	Each invited Agency to provide response
Conduct Public Scoping	Solicit public input on Project, Alternatives, socio and environmental concerns	Any Agency Scoping Comments due at same time as public comments	All Agency
Post Scoping Collaboration			
	Purpose and Need	Agency Purpose and Need Statement/Purpose and Need for development of EIS	Action Agencies/all agencies
	Develop Alternatives Screening Criteria	Criteria for Reasonable Criteria for Practicable	All Agencies
	Breadth of Environmental Resources to be analyzed	List of environmental resources. Finalize EIS outline	All Agencies
Collaboration on impact assessment methodologies	Technical expertise by topic to determine the appropriate context and method for evaluating impacts to specific environmental resources	Report out from each group	Agencies as assigned based on jurisdiction and special expertise
Review of Environmental Baseline and Consequences	Review comments by agencies with technical experts	Resolve agency Comments on document sections	Agencies as assigned based on jurisdiction and special expertise
Post Circulation of DEIS	Review public comments within assigned areas	Address/Resolve Public Comments	Agencies as assigned based on jurisdiction and special expertise
I.D. the Applicant's Preferred Alternative iaw AppB	Agencies with Federal actions – id preferred alt.	USACE in accordance with Appendix B, PHMSA as fits their agency.	Action Agencies

Coordination Point	Meeting Purpose	Deliverables	Agency Involvement
	and identify differences based on program authorities		
I.D. LEDPA	Review all relevant information to LEDPA determination	Preliminary LEDPA	USACE/USEPA
Circulation of FEIS	Agency involvement closeout	Document	USACE

REFERENCES

1. Council on Environmental Quality NEPA regulations
http://www.nepa.gov/nepa/regs/ceq/toc_ceq.htm
2. Forty Most Asked Questions Concerning CEQ's
NEPA Regulations
http://www.eh.doe.gov/nepa/tools/guidance/volume1/4-1-40_questions.html
3. The Corps Environmental Quality Procedures
for Implementing NEPA
<http://www.usace.army.mil/publications/engineeringregs/er200-2-2/entire.pdf>
4. Regulatory Guidance Letter 05-08. Subject:
Environmental Impact Statements-Third
Party Contracting
<http://www.usace.army.mil/Portals/2/docs/civilworks/RGLS/rgl05-08.pdf>
5. Appendix B to Part 325-NEPA
Implementation Procedures for the
Regulatory Program
<http://www.gpo.gov/fdsys/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-part325.pdf>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF THE
REGIONAL
ADMINISTRATOR

MAR 23 2018

Mr. Tom Collier
Pebble Limited Partnership,
3201 C Street, Suite 604
Anchorage, Alaska 99503

Dear Mr. Collier:

Thank you for your letter dated March 1, 2018 to the U.S. Environmental Protection Agency's Administrator Scott Pruitt about the Pebble Project and its resources. Administrator Pruitt has asked me to respond to you on his behalf.

Your letter suggests that the Pebble Project, in addition to producing copper, gold, and molybdenum, could be a significant domestic source of rhenium. Rhenium is included in the draft list of critical minerals that was published by the Department of the Interior in the Federal Register on February 16, 2018. Executive Order 13817 (A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals) requires that the Secretary of Commerce, in coordination with certain other federal agencies, develop a report that provides recommendations to streamline the permitting and review processes related to developing leases; enhancing access to critical mineral resources; and increasing discovery, production, and domestic refining of critical minerals. These recommendations have yet to be finalized.

Your letter requests an opportunity to discuss further the Pebble Project's status as a source of critical mineral commodities as well as efforts to ensure that the Clean Water Act § 404 application receives full and fair consideration without threat of preemptive negative decisions. You asked that the project be afforded any available opportunities for streamlined review and agency decision-making. Under the terms of the settlement agreement resolving litigation with the Pebble Limited Partnership, the EPA Region 10 may not forward a signed Recommended Determination, if such a decision is made, before either May 11, 2021, or until the EPA provides public notice of a final Environmental Impact Statement issued by the U.S. Army Corps of Engineers, whichever comes first. As stated in the Federal Register notice announcing the EPA's decision not to withdraw Region 10's July 2014 Proposed Determination at that time, neither that decision nor the settlement agreement prejudices a particular outcome for the permitting process or for the EPA's CWA § 404(c) review. Pebble's CWA § 404 permit application has received and will continue to receive full and fair consideration from the EPA.

In regards to opportunities for streamlined review and decision-making, the U.S. Army Corps of Engineers is the lead federal agency under the National Environmental Policy Act in developing the EIS for the Pebble Project. The Corps is developing a schedule for the EIS and CWA § 404 permit review. The EPA is a cooperating agency in the NEPA process and will be working with the Corps pursuant to its schedule.

Again, thank you for your letter to Administrator Pruitt. If you would like additional information, please

feel free to contact me or have your staff contact David Allnutt, Director of the Office of Environmental Review and Assessment. You can reach David by phone at (206) 553-2581 or Allnutt.David@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'CHL', is positioned above the printed name.

Chris Hladick
Regional Administrator



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL REVIEW
AND ASSESSMENT

January 29, 2018

Colonel Michael S. Brooks
Department of the Army
Alaska District, U.S. Army Corps of Engineers
P.O. Box 6898
Joint Base Elmendorf-Richardson, Alaska 99506

Dear Colonel Brooks:

Thank you for your letter, dated January 9, 2018, inviting the EPA to serve as a cooperating agency in development of the Environmental Impact Statement for the Pebble Project (EPA Region 10 Project Number 18-0002-COE). The U.S. Army Corps of Engineers-Alaska District will be the lead federal agency under the National Environmental Policy Act for the development of the EIS. Your letter invites us to participate as a cooperating agency due to our special expertise with respect to the Clean Water Act Section 404(b)(1) Guidelines and indicates that our involvement in the EIS development process for the Pebble Project will be limited to that topic. Your letter also contains certain specific requirements for cooperating agencies. Our concerns with the District's current approach are included below.

Special Expertise

The EPA has significant concerns with the Corps' proposal to limit the EPA's cooperating agency involvement with the development of the EIS to CWA Section 404(b)(1) issues. We understand that this would enable us to provide early input on alternatives development, but we would not necessarily be afforded the opportunity to provide early input on baseline data review and impact assessment. The EPA made the Corps aware of these concerns in the comments attached to my January 11, 2018 letter to Sheila Newman on the Corps' Draft Cooperating Agency Plan, as well as during discussions at the January 18, 2018 pre-scoping agency meeting that was hosted by the Corps in Anchorage.

In addition to our CWA Section 404(b)(1) role, the EPA has the responsibility under the Clean Water Act to provide oversight of the State's Alaska Pollutant Discharge Elimination System permit for discharges of wastewater from the project and to prevent, clean up, and mitigate spills and discharges of oil and other hazardous substances into navigable and coastal waters. We also have the responsibility under the Marine Protection, Research, and Sanctuaries Act to designate, monitor, and manage any site for the ocean disposal of dredged material and to review and concur on any Corps-issued permit for the ocean disposal of dredged material (should that become a potential alternative to one of the current project components). In addition, we have responsibility under the Clean Air Act to provide oversight of air permits issued by the State, and CAA Section 309 responsibility to review and comment in writing, for the public, on the entirety of the draft EIS. Given these authorities and responsibilities pertinent to wetlands impacts, water discharges, air emissions, and overall review of all aspects of an EIS, the EPA has substantial special expertise in the assessment of the environmental impacts of large mining projects. The EPA has previously managed the development of EISs for mining projects in Alaska (Pogo Mine, Red Dog Aqqaluk Extension) and has been a cooperating agency on EISs for other mining projects (Kensington, Greens Creek, Donlin Gold). In addition, we are currently serving as a cooperating agency for EIS development on several projects in Alaska that involve pipelines similar to the Pebble Project

(Alaska Stand Alone Pipeline, AK LNG, Donlin Gold). The scope of our cooperating agency involvement in EIS development on these and other projects in Alaska has not been restricted by the Corps or other federal agencies.

The EPA was involved in this particular project from 2004 to 2010 as part of the interagency technical review teams' evaluation of select baseline environmental data from the project area. In January 2014, after three years of study, the EPA released its final report on "An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska." The EPA developed this assessment to better understand the Bristol Bay watershed and its resources. The assessment reviews, analyzes, and synthesizes information relevant to potential impacts of large-scale mine development on Bristol Bay fisheries and the potential consequent effects on Alaska Native cultures and wildlife in the region.

The EPA is interested in bringing both our broader environmental and site-specific special expertise to the cooperating agency team that the Corps is establishing for the Pebble EIS. To better fulfill our responsibilities under CAA Section 309 and CWA Section 404 and our State air and water permitting oversight role, we have already assembled a cross-programmatic, multi-disciplinary team including EPA employees with expertise in hydrogeology, hydrology, geochemistry, air modeling, water quality modeling, water treatment, dredged material management, wetlands, fisheries, mining engineering, and mining waste management technologies. Our desire is to work collaboratively with the Corps during EIS development so that issues are identified and resolved early in the process. This is consistent with CEQ guidance that lead federal agencies encourage active participation from cooperating agencies in order to improve the efficiency, effectiveness, and value of NEPA analyses (Memorandum for the Heads of Federal Agencies, Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act, CEQ, January 30, 2002).

We would like to have a meeting with you to discuss revising your NEPA cooperating agency invitation to the EPA beyond CWA Section 404(b)(1) to include all areas of EIS analysis, consistent with the Corps' past and current implementation of NEPA on other projects. If, after this meeting, the Corps agrees to reconsider our role, we request a revised cooperating agency invitation letter and will likely respond affirmatively.

Cooperating agency specific requirements

We agree with the specific requirements for cooperating agencies included in your January 9, 2018 letter. If, after our meeting, we decide to participate as a cooperating agency, we will request several additional provisions in our response letter, including provisions to address communication regarding Freedom of Information Act requests, modification of the Cooperating Agency Coordination Plan and the Corps' commitment to provide cooperating agencies with the opportunity to review and comment on a preliminary draft EIS. We note that a preliminary draft EIS is typically developed for cooperating agency review prior to becoming available for public comment. These issues were discussed with the Corps during the January 18 pre-scoping meeting.

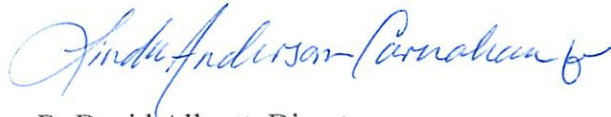
Concluding Remarks

You have requested a response to the cooperating agency invitation by January 29th. As discussed above, we would like to have a meeting with you regarding the invitation before providing a final response. We believe that a meeting is warranted because the current invitation is a significant departure from how the Corps has implemented NEPA in establishing the EPA's cooperating agency role on other projects. The EPA's substantial expertise on a broad range of issues will contribute to a more efficient, transparent, and robust NEPA process and we request that the Corps reconsider our role as a cooperating

agency, consistent with numerous ongoing and past projects. We are committed to providing a response shortly after we have an opportunity to discuss this issue.

Please feel free to contact me at (206) 553-2581, or Patty McGrath at (206) 553-6113 to set up such a meeting.

Sincerely

A handwritten signature in blue ink, appearing to read "R. David Allnutt", with a stylized flourish at the end.

R. David Allnutt, Director
Office of Environmental Review and Assessment

Cc: Sheila Newman, Alaska District, U.S. Army Corps of Engineers

DRAFT AGENDA
Mine Team “Sector” Retreat 2018
Wednesday, May 16th

Goal: *To connect as a team, share program updates, and develop a Regional Mine Sector Workplan.*

Desired Outcomes:

1. A draft outline of 2-year work plan which covers the Mining Team work priorities, goals and projects so that the team can anticipate workload, adjust resources as necessary and communicate projects to managers and senior staff.
2. An understanding of the role of Mining Advisor and in particular the changes from the past and how the position works with the Mining Team.
3. An improved understanding of the work of the Mining Team and its individual members so that we can more effectively work together and have a comprehensive view of the different work processes and programs and how these may impact your work plan.

Location:

NOAA Western Regional Center at Magnuson Park, 7600 Sand Point Way, Seattle WA. Building #2 Conference Room

Travel Logistics: *Arrive at 9:00. Carpools TBD*

Agenda

- 9:00 Arrive Coffee and Baked Goods
- 9:30 Morning Session, **“Welcome- Regional and National Perspectives”**
1.5 hrs.
 - Introductions
 - Where we’ve been and where we are now with R10 mining and roles- Patty
 - What going on with the Smart Sector? Lead for Mining Smart Sector- Bob Sachs
 - Highlights from the National Mine Team- Lead- Shahid Mahumd
- Break 15 min
- 10:30 continue
 - Program Updates/latest news (NPDES, Enforcement, NEPA, Superfund, 404, National Mining Working Group)
 - Any changes staff seeing in their programs
 - What would be of interest to the team
 - Are there any program concerns that staff have related mining work
- 11:00 Late Morning/Afternoon **“Promoting our Work: A Mining Sector Work Plan”**
3 hrs. (includes lunch at 12:30 @ NOAA Cafeteria)
 - Facilitator to help structure group session
 - Ideas for work plan
 - Structure of work plan- tables with narrative?
 - Priorities
 - Consider any Regional/National priorities
 - What would like staff like to include
 - Consider development of Mining Sharepoint site development

- 3:00 Break
- 3:15 Late Afternoon, **“A View from the Field”**
1 hr.
 - Case studies
 - Ballard Mine, Dave
 - Bunker Hill, Ed
 - Pebble update, Patty (if time permits)
- 4:15 wrap up
- 4:30 Social Hour @ Patty’s House nearby

Bristol Bay Teams – draft, January 11, 2018

404(c) Team

PM:

Erik Peterson

404 Program:

Annie Whitley
Palmer Hough (OW)
Brittany Bennett (OW)

Legal:

Ashley Palomaki
Heidi Nalven (OGC)

Tribal:

Neverley Shoemake
Michael Ortiz [backup]
JR Herbst [backup]
Karen Gude (OW)

Press:

Suzanne Skadowski
Marianne Holsman

Community Involvement:

Andi Lindsay

Contract Support:

Mark Douglas [COR]
Michael Winkelhorst [contractor]

Management:

David Allnutt
Allyn Stern
Michael Szerlog
Cara Steiner-Riley
Stacy Murphy
Tami Fordham
Carrie Wehling (OGC)
Russ Kaiser (OW)

Permit Oversight/NEPA Review Team

PM:

Patty McGrath

NEPA Lead:

Molly Vaughn

NEPA Associate Reviewers

[TBD; may include ORD and OW technical experts]

404 Lead:

Matt LaCroix

404 Program Support:

Mary Anne-Thiesing
Heather Dean
Palmer Hough (OW)

Dredged Material Management:

Chris Meade

APDES Permitting Oversight:

Cindi Godsey

Air Permitting Oversight:

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Bristol Bay Teams – draft, January 2, 2018

404(c) Team

PM:

Erik Petersen

404 Program:

Annie Whitley
Palmer Hough (OW)
Brittany Bennett (OW)

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Ashley Palomaki
Heidi Nalven (OGC)

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Carrie Wehling (OGC)
Russ Kaiser (OW)

Contract Support:

Michael Winkelhorst

404 Permit/NEPA Review Team/[Permit Oversight](#)

PM:

Patty McGrath

404 Lead:

[?Matt LaCroix](#)

404 Program Support:

Mary Anne-Thiesing
Heather Dean
Palmer Hough (OW)

NEPA Lead:

?

NEPA Associate Reviewers

[?Geochemistry – Chris Eckley](#)
[Hydrology/Hydrogeology – Tim Maley \(Brenda B to confirm on Monday\)](#)
[?Water quality/water treatment – Cindi Godsey](#)
[?Mining waste management – Patty and Cindi](#)
[Air – Jay McAlpine, Karl Pepple](#)
? (ORD)
? (OW)

Ocean Dumping:

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[Air Permit Oversight](#)

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David Allnutt

Bristol Bay Teams – draft, January 2, 2018

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Michael Szerlog
Cara Steiner-Riley
Stacy Murphy
Carrie Wehling (OGC)



DEPARTMENT OF THE ARMY
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 6898
JBER, AK 99506-0898

JAN 09 2017

District Commander

David Allnut
Director Office of Environmental Review & Assessment
U.S. Environmental Protection Agency
Region 10
1200 6th Avenue
Seattle, Washington 98101

Dear Mr. Allnut:

The United States Army Corps of Engineers, Alaska District, has received a Department of the Army (DA) permit application from the Pebble Limited Partnership (PLP) for the discharge of fill material into waters of the United States to facilitate development of the Pebble copper-gold-molybdenum porphyry deposit as a surface mine.

PLP proposes to develop existing State of Alaska owned mine claims at the Pebble deposit located approximately 200 miles southwest of Anchorage, approximately 60 miles west of tidewater on Cook Inlet and 17 to 19 miles from the nearest communities of Iliamna, Newhalen and Nondalton. PLP's project as proposed would consist of four primary project elements: a mine site, port at Amakdedori, transportation corridor, and natural gas pipeline.

I have determined that an environmental impact statement level of analysis is required pursuant to the National Environmental Policy Act (NEPA) for review and evaluation of this DA permit application. I am inviting your agency to participate in this endeavor as a cooperating agency in accordance with the Council on Environmental Quality's NEPA implementing regulations (40CFR1506.1).

A pre-application meeting was conducted with your staff on 21 Dec 2017 and a complete copy of the DA Permit Application (POA-2017-271) was made available to your agency on 22 Dec 2017. In addition, a draft cooperating agency coordination plan, draft list of federal and state authorities and required actions, and potential schedule was provided on 22 Dec 2017 for agency review and input.

Your agency has special expertise with respect to the Clean Water Act Section 404(b)(1) guidelines. For this reason, you are invited to become actively involved in writing the environmental impact statement. As a cooperating agency your agency's involvement will be specific to those areas under your special expertise.

Cooperating agency specific requirements will include:

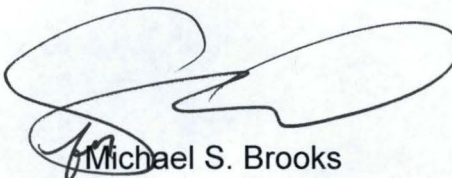
- a. Participation in prescheduled meetings and providing written agency recommendations for:
 - 1. Development of a range of reasonable alternatives;
 - 2. Responses to public comments on the DEIS relevant to cooperating agency area of special expertise;
 - 3. Input into Corps determination of Least Environmentally Damaging Practicable Alternative.
- b. Additional required participation:
 - 1. Participation in scoping and other early stages of the environmental review process;
 - 2. Participation in the preparation of environmental analyses concerning portions within your special expertise;
 - 3. Review of relevant sections of the Draft EIS prior to its release for comment by the public and other agencies; and
 - 4. Writing and/or analysis necessary for the document's preparation.
- c. Activities where we encourage your participation to maximize interagency cooperation include:
 - 1. Workshops and educational meetings;
 - 2. Consultation on relevant technical studies within your area of special expertise;
 - 3. Field reviews;
 - 4. Frequent access to project information and study results;
 - 5. Use of all above documents to express your views on subjects within your special expertise.

We intend to use the EIS as the basis for the DA permit decision. We will use any analysis and proposals you provide to the maximum extent possible, consistent with our responsibility as lead agency. We intend for the DA permit application review process to proceed concurrently with the EIS process.

In order to give your agency adequate opportunity to determine your participation in this environmental review process, a written response to this cooperating agency invitation is not sought until after the interagency pre-scoping meeting coordinated and scheduled with agencies to take place 18 Jan 2018 at the Atwood Conference Center, Room 104, in Anchorage, Alaska. I ask that you please respond to this cooperating agency invitation by close of business on 29 Jan 2018.

We look forward to your comments and response to this request and to your role as a cooperating agency on the proposed action. In your response, please identify/confirm your agency's single point of contact for future coordination efforts. If you have any questions or would like to discuss in more detail the project or our agencies' respective roles and responsibilities during the preparation of this EIS, please contact my Regulatory Program Manager, Sheila Newman by phone at 907-753-2712 or by email at poaspecialprojects@usace.army.mil.

Sincerely,



Michael S. Brooks
Colonel, U.S. Army
Commanding

Food/Drink:

- Small Morning Coffee/Snacks and Afternoon Snacks Provided by Planning Team (BYOC)
- Lunch available for purchase in the NOAA cafeteria or bring your own bagged lunch

AGENDA
Mine Team "Sector" Retreat 2018

Wednesday, May 16th

9am – 4pm

NOAA Western Regional Center at Magnuson Park
 7600 Sand Point Way, Seattle WA Building #9 Conference Room

Logistics:

- **Bring your EPA badge!** You will not be let into building without it
- **Planning Team:** Patty McGrath, 3-6113; Jamey Stoddard, 3-6110; Lynne Hood, 8-5757; Charissa Bujak, 8-5754

Goal: To connect as a team, share program updates, and develop a Regional Mine Sector Work Plan.

Desired Outcomes:

1. A draft outline of a 2-year work plan which covers the Mining Team work priorities, goals and projects so that the team can communicate EPA's role and work related to mining to managers, anticipate workload, and adjust resources as necessary.
2. An understanding of the role of Mining Advisor and how the position works with the Mining Team.
3. An improved understanding of the work of the Mining Team and its individual members so that we can more effectively work together and have a comprehensive view of the different work processes and programs and how these may impact your work plan.

TIME	WHAT	WHO
8:45am	Arrive at NOAA conference room	All
9:00am-9:15am	Opening Welcome and Logistics, Introductions, Agenda review	Facilitator
9:15am-9:45am	Working Agreement What do you need to make this retreat a success?	Facilitator
9:45am-10:45am	Regional and National Perspectives <ul style="list-style-type: none"> • R10 Mining Team/Sector – History, Roles & Decision Making • EPA National Mining Team • EPA Smart Sector - mining 	Patty McGrath & Jim Werntz Shahid Mahumd (on phone/Skype) Bob Sachs (on phone/Skype)
11:00am-11:45am	News from the Programs <ul style="list-style-type: none"> • NPDES, NEPA Compliance, NEPA Review, Superfund, 404, Air, Tribal 	NPDES - Cindi Godsey NEPA Compliance - Jamey Stoddard NEPA Review - Lynne Hood CWA 404 – Maryann/Charissa Air – Karl Pepple Superfund – Matt Wilkening Tribal – Jim Zokan
11:45am-12:30pm	Promoting our Work: A Mining Sector Work Plan: Goals	Facilitator
12:30pm-1:30pm	Lunch	All
1:30pm-2:15pm	Promoting our Work: A Mining Sector Work Plan: Strategies	Facilitator
2:15pm-3:15pm	Promoting our Work: A Mining Sector Work Plan: Activities	Facilitator
3:15pm-4:00pm	Highlights	Ballard Mine, Dave Bunker Hill, Ed Pebble update, Patty

Post-Retreat Gathering @ Patty's House: (b) (6)

EPA-2506-0000172

Bristol Bay Teams – draft, January 2, 2018

404(c) Team

PM:

Erik Petersen

404 Program:

Annie Whitley
Palmer Hough (OW)
Brittany Bennett (OW)

Legal:

Ashley Palomaki
Heidi Nalven (OGC)

Tribal:

Michael Ortiz
Karen Gude (OW)

Press:

Suzanne Skadowski
Marianne Holsman

Community Involvement:

Andi Lindsay

Management:

David Allnutt
Allyn Stern
Michael Szerlog
Cara Steiner-Riley
Stacy Murphy
Tami Fordham
Carrie Wehling (OGC)
Russ Kaiser (OW)

Contract Support:

Michael Winkelhorst

404 Permit/NEPA Review Team/Permit Oversight

PM:

Patty McGrath

404 Lead:

Matt LaCroix

404 Program Support:

Mary Anne-Thiesing
Heather Dean
Palmer Hough (OW)

NEPA Lead:

?

NEPA Associate Reviewers

Geochemistry – Chris Eckley
Hydrology/Hydrogeology – Tim Maley (Brenda B to confirm on Monday)
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Bristol Bay Teams – draft, January 9, 2018

404(c) Team

PM:

Erik Peterson

404 Program:

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Contract Support:

Michael Winkelhorst

Permit Oversight/NEPA Review Team

PM:

Patty McGrath

NEPA Lead:

Molly Vaughn

NEPA Associate Reviewers

[TBD; may include ORD and OW technical experts]

404 Lead:

Matt LaCroix

404 Program Support:

Mary Anne-Thiesing
Heather Dean
Palmer Hough (OW)

Ocean Dumping:

Chris Meade

APDES Permitting Oversight:

Cindi Godsey

Air Permitting Oversight:

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Bristol Bay Teams – draft, January 5, 2018

404(c) Team

PM:

Erik Petersen

404 Program:

Annie Whitley

Palmer Hough (OW)

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Legal:

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Heidi Nalven (OGC)

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Bristol Bay Teams – draft, January 9, 2018

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404 Program:

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Russ Kaiser (OW)

Contract Support:

Michael Winkelhorst

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PM:

Patty McGrath

NEPA Lead:

Molly Vaughn

NEPA Associate Reviewers

[TBD; may include ORD and OW technical experts]

404 Lead:

Matt LaCroix

404 Program Support:

Mary Anne-Thiesing
Heather Dean
Palmer Hough (OW)

Ocean Dumping:

Chris Meade

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Bristol Bay Teams – draft, January 2, 2018

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NEPA Associate Reviewers

Geochemistry – Chris Eckley
Hydrology/Hydrogeology – Tim Maley (Brenda B to confirm on Monday)
Water quality/water treatment – Cindi Godsey
? Mining waste management – Patty and Cindi
Air – Jay McAlpine, Karl Pepple
? (ORD)
? (OW)

Ocean Dumping:

Chris Meade

Air Permit Oversight

Jay McAlpine, Karl Pepple

APDES Permit Oversight

Cindi Godsey

Legal:

Ashley Palomaki
Heidi Nalven (OGC)

Tribal:

Michael Ortiz
Karen Gude (OW)

Press:

Suzanne Skadowski
Marianne Holsman

Management:

David Allnutt

Bristol Bay Teams – draft, January 2, 2018

Allyn Stern
Marcia Combes
Michael Szerlog
Cara Steiner-Riley
Stacy Murphy
Carrie Wehling (OGC)